

HOUSE BILL NO. 43

INTRODUCED BY COBB

IN THE HOUSE

DECEMBER 29, 1990 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 7, 1991 FIRST READING.

JANUARY 11, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 14, 1991 PRINTING REPORT.

JANUARY 15, 1991 SECOND READING, DO PASS.

JANUARY 16, 1991 ENGROSSING REPORT.

JANUARY 17, 1991 THIRD READING, PASSED.
AYES, 100; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 17, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 18, 1991 FIRST READING.

JANUARY 25, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

JANUARY 26, 1991 PASS CONSIDERATION.

JANUARY 28, 1991 SECOND READING, CONCURRED IN.

JANUARY 29, 1991 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

JANUARY 31, 1991 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

FEBRUARY 1, 1991

THIRD READING, PASSED.
AYES, 98; NOES, 0.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 43
 2 INTRODUCED BY COBB
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING DISTRICT
 5 COURTS TO GRANT VISITATION RIGHTS TO THE GRANDPARENTS OF
 6 YOUTH IN NEED OF CARE OR SUPERVISION, DELINQUENT YOUTH, AND
 7 YOUTH WHOSE PARENTS' PARENTAL RIGHTS HAVE BEEN TERMINATED."
 8

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

10 NEW SECTION. Section 1. Grandparent visitation rights
 11 for certain youth. (1) The district court may grant to the
 12 grandparent of a child reasonable visitation rights as
 13 provided in this section.

14 (2) Reasonable visitation rights may be granted to a
15 grandparent of:

16 (a) a youth for whom disposition is made under
17 41-3-406;

18 (b) a youth placed in a youth care facility, as defined
19 in 41-3-1102, by an order of the youth court; or

20 (c) a youth for whom the parent-child legal
21 relationship has been terminated pursuant to Title 41,
22 chapter 3, part 6.

23 (3) Proceedings for the granting of visitation rights
24 under this section, including the requirements for
25 pleadings, findings, timing of a petition, appointment of an

1 attorney, and exceptions, are governed by 40-9-101 and
2 40-9-102.

3 NEW SECTION. Section 2. Codification instruction.
 4 [Section 1] is intended to be codified as an integral part
 5 of Title 41, chapter 3, part 1, and the provisions of Title
 6 41, chapter 3, apply to [section 1].

-End-



-2- INTRODUCED BILL
 HB 43

APPROVED BY COMMITTEE
ON JUDICIARY

1 HOUSE BILL NO. 43
 2 INTRODUCED BY COBB
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING--DISTRICT
 5 COURTS--TO--GRANT--VISITATION--RIGHTS--TO--THE--GRANDPARENTS--OF
 6 YOUTH--IN--NEED--OF--CARE--OR--SUPERVISION,--DELINQUENT--YOUTH,--AND
 7 YOUTH--WHOSE--PARENTS'--PARENTAL--RIGHTS--HAVE--BEEN--TERMINATED--"
 8 TO CLARIFY THE EXTENT OF A GRANDPARENT'S RIGHT TO VISIT
 9 GRANDCHILDREN; TO PROVIDE FOR JOINDER OF THE DEPARTMENT OF
 10 FAMILY SERVICES IN A PROCEEDING TO ESTABLISH VISITATION
 11 RIGHTS; AND AMENDING SECTION 40-9-102, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 (Refer to Introduced Bill)

15 Strike everything after the enacting clause and insert:

16 **Section 1.** Section 40-9-102, MCA, is amended to read:
 17 "40-9-102. Grandparent visitation rights. (1) Except as
 18 provided in subsection (5) (6), the district court may grant
 19 to a grandparent of a child reasonable visitation rights,
 20 including but not limited to visitation rights regarding a
 21 child who is the subject of, or as to whom a disposition has
 22 been made during, an administrative or court proceeding
 23 under Title 41 or this title.

24 (2) Visitation rights granted under this section may be
 25 granted only upon a finding by the court, after a hearing,

1 that the visitation would be in the best interest of the
 2 child.

3 (3) If the department of family services has become
 4 involved with the child under any law of this state, it must
 5 be joined as a party under Rule 19(a), Montana Rules of
 6 Civil Procedure.

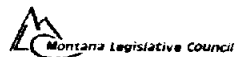
7 (3)(4) No person may petition the court under this
 8 section more often than once every 2 years unless there has
 9 been a significant change in the circumstances of the child;
 10 the child's parent, guardian, or custodian; or the child's
 11 grandparent.

12 (4)(5) The court may appoint an attorney to represent
 13 the interests of a child with respect to visitation when
 14 such interests are not adequately represented by the parties
 15 to the proceeding.

16 (5)(6) This section does not apply if the child has
 17 been adopted by a person other than a stepparent or a
 18 grandparent. Visitation rights granted under this section
 19 terminate upon the adoption of the child by a person other
 20 than a stepparent or a grandparent."

-End-

SECOND READING



1 HOUSE BILL NO. 43
 2 INTRODUCED BY COBB
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING--DISTRICT
 5 COURTS--TO--GRANT--VISITATION--RIGHTS--TO--THE--GRANDPARENTS--OF
 6 YOUTH--IN--NEED--OF--CARE--OR--SUPERVISION,--DELINQUENT--YOUTH,--AND
 7 YOUTH--WHOSE--PARENTS'--PARENTAL--RIGHTS--HAVE--BEEN--TERMINATED."
 8 TO CLARIFY THE EXTENT OF A GRANDPARENT'S RIGHT TO VISIT
 9 GRANDCHILDREN; TO PROVIDE FOR JOINDER OF THE DEPARTMENT OF
 10 FAMILY SERVICES IN A PROCEEDING TO ESTABLISH VISITATION
 11 RIGHTS; AND AMENDING SECTION 40-9-102, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 (Refer to Introduced Bill)

15 Strike everything after the enacting clause and insert:
 16 **Section 1.** Section 40-9-102, MCA, is amended to read:
 17 "40-9-102. Grandparent visitation rights. (1) Except as
 18 provided in subsection ~~(5)~~ (6), the district court may grant
 19 to a grandparent of a child reasonable visitation rights,
 20 including but not limited to visitation rights regarding a
 21 child who is the subject of, or as to whom a disposition has
 22 been made during, an administrative or court proceeding
 23 under Title 41 or this title.

24 (2) Visitation rights granted under this section may be
 25 granted only upon a finding by the court, after a hearing,

1 that the visitation would be in the best interest of the
 2 child.

3 (3) If the department of family services has become
 4 involved with the child under any law of this state, it must
 5 be joined as a party under Rule 19(a), Montana Rules of
 6 Civil Procedure.

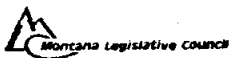
7 ~~(3)~~(4) No person may petition the court under this
 8 section more often than once every 2 years unless there has
 9 been a significant change in the circumstances of the child;
 10 the child's parent, guardian, or custodian; or the child's
 11 grandparent.

12 ~~(4)~~(5) The court may appoint an attorney to represent
 13 the interests of a child with respect to visitation when
 14 such interests are not adequately represented by the parties
 15 to the proceeding.

16 ~~(5)~~(6) This section does not apply if the child has
 17 been adopted by a person other than a stepparent or a
 18 grandparent. Visitation rights granted under this section
 19 terminate upon the adoption of the child by a person other
 20 than a stepparent or a grandparent."

-End-

THIRD READING



1 HOUSE BILL NO. 43
 2 INTRODUCED BY COBB
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING--DISTRICT
 5 COURTS--TO--GRANT--VISITATION--RIGHTS--TO--THE--GRANDPARENTS--OF
 6 YOUTH--IN--NEED--OF--CARE--OR--SUPERVISION--DELINQUENT--YOUTH--AND
 7 YOUTH--WHOSE--PARENTS--PARENTAL--RIGHTS--HAVE--BEEN--TERMINATED--"
 8 TO CLARIFY THE EXTENT OF A GRANDPARENT'S RIGHT TO VISIT
 9 GRANDCHILDREN; TO PROVIDE FOR JOINER-OF NOTICE, IN CERTAIN
 10 CASES, TO THE DEPARTMENT OF FAMILY SERVICES IN A PROCEEDING
 11 TO ESTABLISH VISITATION RIGHTS; AND AMENDING SECTION
 12 40-9-102, MCA."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 (Refer to Introduced Bill)

16 Strike everything after the enacting clause and insert:
 17 **Section 1.** Section 40-9-102, MCA, is amended to read:

18 "40-9-102. Grandparent visitation rights. (1) Except as
 19 provided in subsection ~~{5}~~ ~~{6}~~ (5), the district court may
 20 grant to a grandparent of a child reasonable visitation
 21 rights, including but not limited to visitation rights
 22 regarding a child who is the subject of, or as to whom a
 23 disposition has been made during, an administrative or court
 24 proceeding under Title 41 or this title. THE DEPARTMENT OF
 25 FAMILY SERVICES MUST BE GIVEN NOTICE OF A PETITION FOR

1 GRANDPARENT VISITATION REGARDING A CHILD WHO IS THE SUBJECT
 2 OF, OR AS TO WHOM A DISPOSITION HAS BEEN MADE DURING, AN
 3 ADMINISTRATIVE OR COURT PROCEEDING UNDER TITLE 41 OR THIS
 4 TITLE.

5 (2) Visitation rights granted under this section may be
 6 granted only upon a finding by the court, after a hearing,
 7 that the visitation would be in the best interest of the
 8 child.

9 ~~{3}--If--the--department--of--family--services--has--become~~
 10 ~~involved--with--the--child--under--any--law--of--this--state--it--must~~
 11 ~~be--joined--as--a--party--under--Rule--19(a),--Montana--Rules--of~~
 12 ~~Civil--Procedure.~~

13 ~~{3}{4}{3}~~ No person may petition the court under this
 14 section more often than once every 2 years unless there has
 15 been a significant change in the circumstances of the child;
 16 the child's parent, guardian, or custodian; or the child's
 17 grandparent.

18 ~~{4}{5}{4}~~ The court may appoint an attorney to
 19 represent the interests of a child with respect to
 20 visitation when such interests are not adequately
 21 represented by the parties to the proceeding.

22 ~~{5}{6}{5}~~ This section does not apply if the child has
 23 been adopted by a person other than a stepparent or a
 24 grandparent. Visitation rights granted under this section
 25 terminate upon the adoption of the child by a person other

REFERENCE BILL
 HB 43



HB 0043/03

1 than a stepparent or a grandparent."

-End-