

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 16, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 299
2 INTRODUCED BY Rice

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PERMANENT
5 PLACEMENT OF CHILDREN IN FOSTER CARE; REQUIRING PERMANENT
6 DISPOSITION BY THE COURT WITHIN CERTAIN TIME LIMITS;
7 APPROPRIATING MONEY TO THE DEPARTMENT OF FAMILY SERVICES TO
8 IMPLEMENT A PERMANENCY PLANNING PROJECT FOR CHILDREN IN
9 FOSTER CARE; AMENDING SECTION 41-3-609, MCA; AND PROVIDING
10 AN EFFECTIVE DATE."

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

13 NEW SECTION. Section 1. Length of time in foster care
14 -- permanent disposition. The court shall terminate parental
15 rights under 41-3-609(2) or order other permanent legal
16 custody that will provide for the permanent placement of the
17 child when legal custody of a youth has been transferred to
18 the department under this part and:

19 (1) the child has been in an out-of-home placement for
20 a cumulative total period of 1 year or longer pursuant to
21 court order and the parent has substantially neglected or
22 willfully refused to remedy the circumstances that cause the
23 child to be in an out-of-home placement; or

24 (2) the child has been in an out-of-home placement for
25 a cumulative total period of 2 years or longer pursuant to

1 court order, the parent has been unable to remedy the
2 circumstances that cause the child to be in an out-of-home
3 placement, and there is a substantial likelihood that the
4 parent will not be capable of exercising proper and
5 effective parental care and control in the near future.

6 **Section 2.** Section 41-3-609, MCA, is amended to read:

7 "41-3-609. **Criteria for termination.** (1) The court may
8 order a termination of the parent-child legal relationship
9 upon a finding that the circumstances contained in
10 subsection (1)(a), (1)(b), or (1)(c), as follows, exist:

11 (a) the parents have relinquished the child pursuant to
12 40-6-135;

13 (b) the child has been abandoned by his parents as set
14 forth in 41-3-102(3)(d); or

15 (c) the child is an adjudicated youth in need of care
16 and both of the following exist:

17 (i) an appropriate treatment plan that has been
18 approved by the court has not been complied with by the
19 parents or has not been successful; and

20 (ii) the conduct or condition of the parents rendering
21 them unfit is unlikely to change within a reasonable time.

22 (2) The court shall order a termination of the
23 parent-child relationship upon a finding that the parent has
24 failed to successfully complete a treatment plan within the
25 time periods allowed for the child to be in foster care



1 under [section 1] unless it orders other permanent legal
2 custody under [section 1].

3 ~~(2)~~(3) In determining whether the conduct or condition
4 of the parents is unlikely to change within a reasonable
5 time, the court must enter a finding that continuation of
6 the parent-child legal relationship will likely result in
7 continued abuse or neglect or that the conduct or the
8 condition of the parents renders the parents unfit, unable,
9 or unwilling to give the child adequate parental care. In
10 making such determinations, the court shall consider but is
11 not limited to the following:

12 (a) emotional illness, mental illness, or mental
13 deficiency of the parent of such duration or nature as to
14 render the parent unlikely to care for the ongoing physical,
15 mental, and emotional needs of the child within a reasonable
16 time;

17 (b) a history of violent behavior by the parent;

18 (c) a single incident of life-threatening or gravely
19 disabling injury to or disfigurement of the child caused by
20 the parent;

21 (d) excessive use of intoxicating liquor or of a
22 narcotic or dangerous drug that affects the parent's ability
23 to care and provide for the child;

24 (e) present judicially ordered long-term confinement of
25 the parent;

1 (f) the injury or death of a sibling due to proven
2 parental abuse or neglect; and

3 (g) any reasonable efforts by protective service
4 agencies that have been unable to rehabilitate the parent.

5 ~~(3)~~(4) In considering any of the factors in subsection
6 ~~(2)~~ (3) in terminating the parent-child relationship, the
7 court shall give primary consideration to the physical,
8 mental, and emotional conditions and needs of the child. The
9 court shall review and, if necessary, order an evaluation of
10 the child's or the parent's physical, mental, and emotional
11 conditions.

12 ~~(4)~~(5) A treatment plan is not required under this part
13 upon a finding by the court following hearing if:

14 (a) two medical doctors submit testimony that the
15 parent is so severely mentally ill that such person cannot
16 assume the role of parent;

17 (b) the parent is incarcerated for more than 1 year and
18 such treatment plan is not practical considering the
19 incarceration; or

20 (c) the death of a sibling caused by abuse or neglect
21 by the parent has occurred."

22 NEW SECTION. Section 3. Appropriation -- hiring
23 authority. (1) There is appropriated from the general fund
24 to the department of family services \$371,200 for the
25 biennium beginning July 1, 1991, and ending June 30, 1993,

1 to implement a 2-year permanency planning project, including
2 a case review of all children in foster care over a 3-month
3 period to:

4 (a) determine what needs to be done in each case to
5 assure a permanent, stable home for each child; and

6 (b) assist the department social workers in effectively
7 finding and using the resources to implement positive and
8 realistic permanency plan options for the children.

9 (2) The department may hire five employees to serve as
10 permanency planning specialists or contract for these
11 services.

12 NEW SECTION. **Section 4.** Codification instruction.

13 [Section 1] is intended to be codified as an integral part
14 of Title 41, chapter 3, part 4, and the provisions of Title
15 41, chapter 3, part 4, apply to [section 1].

16 NEW SECTION. **Section 5.** Effective date. [This act] is
17 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0299, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for permanent placement of children in foster care; requiring permanent disposition by the court within certain time limits; appropriating money to the Department of Family Services to implement a permanency planning project for children in foster care; and providing an effective date.

ASSUMPTIONS:

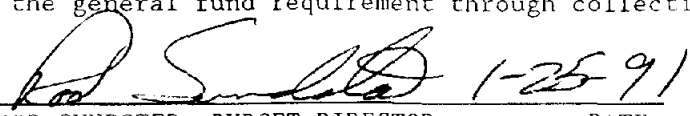
1. DFS currently has the equivalent of 4.00 FTE Family Resource Specialists performing adoption activities.
2. The staffing for the permanency planning project for children in foster care would consist of one supervisor and four adoption specialists.
3. An exact count of possible adoptive placements is not available. DFS estimates 300 potential adoptive placements.
4. The current foster care population is 41.5% IV-E eligible. Federal fund recovery would be 20.75% of total costs (50% of 41.5%).

FISCAL IMPACT:

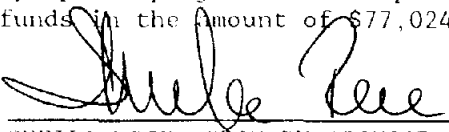
	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	4.00	9.00	5.00	4.00	9.00	5.00
Personal Services	121,748	263,308	141,560	121,748	262,978	141,230
Operating Costs	24,432	62,472	38,040	24,432	68,802	44,370
Equipment	0	6,000	6,000	0	0	0
Total	146,180	331,780	185,600	146,180	331,780	185,600
<u>Funding:</u>						
General Fund	115,848	262,936	147,088	115,848	262,936	147,088
Federal Funds	30,332	68,844	38,512	30,332	68,844	38,512
Total	146,180	331,780	185,600	146,180	331,780	185,600

TECHNICAL NOTES:

Section 3 of the act appropriates \$371,200 in general fund for the proposed project. The department estimates that it could reduce the general fund requirement through collection of federal funds in the amount of \$77,024 under assumption #4 above.


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE 1-25-91


 SHEILA RICE, PRIMARY SPONSOR

DATE 1/26/91

Fiscal Note for HB0299, as introduced.**HB 299**

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

HOUSE BILL NO. 299 INTRODUCED BY S. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PERMANENT PLACEMENT OF CHILDREN IN FOSTER CARE; REQUIRING AUTHORIZING PERMANENT DISPOSITION BY THE COURT WITHIN CERTAIN TIME LIMITS; APPROPRIATING MONEY TO THE DEPARTMENT OF FAMILY SERVICES TO IMPLEMENT A PERMANENCY PLANNING PROJECT FOR CHILDREN IN FOSTER CARE; AMENDING SECTION 41-3-609, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Length of time in foster care -- permanent disposition. The court shall MAY terminate parental rights under 41-3-609(2) or order other permanent legal custody that will provide for the permanent placement of the child when legal custody of a youth has been transferred to the department under this part and:

(1) the child has been in an out-of-home placement for a cumulative total period of 1 year or longer pursuant to court order and the parent has substantially neglected or willfully refused to remedy the circumstances that cause the child to be in an out-of-home placement; or

(2) the child has been in an out-of-home placement for a cumulative total period of 2 years or longer pursuant to

court order, the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement, and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care and control in the near future.

Section 2. Section 41-3-609, MCA, is amended to read:

"41-3-609. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon a finding that the---circumstances---contained---in subsection-(1)(a)--(1)(b)-or-(1)(c)-as-follows, ANY OF THE FOLLOWING CIRCUMSTANCES exist:

(a) the parents have relinquished the child pursuant to 40-6-135;

(b) the child has been abandoned by his parents as set forth in 41-3-102(3)(d); or

(c) the child is an adjudicated youth in need of care and both of the following exist:

(i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and

(ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time;

OR

~~(2) The court shall order a termination of the parent-child relationship upon a finding that~~



1 (D) the parent has failed to successfully complete a
2 treatment plan within the time periods allowed for the child
3 to be in foster care under [section 1] unless it orders
4 other permanent legal custody under [section 1].

5 ~~f2~~~~f3~~(2) In determining whether the conduct or
6 condition of the parents is unlikely to change within a
7 reasonable time, the court must enter a finding that
8 continuation of the parent-child legal relationship will
9 likely result in continued abuse or neglect or that the
10 conduct or the condition of the parents renders the parents
11 unfit, unable, or unwilling to give the child adequate
12 parental care. In making such determinations, the court
13 shall consider but is not limited to the following:

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17 mental, and emotional needs of the child within a reasonable
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21 disabling injury to or disfigurement of the child caused by
22 the parent;

23 (d) excessive use of intoxicating liquor or of a
24 narcotic or dangerous drug that affects the parent's ability
25 to care and provide for the child;

1 (e) present judicially ordered long-term confinement of
2 the parent;

3 (f) the injury or death of a sibling due to proven
4 parental abuse or neglect; and

5 (g) any reasonable efforts by protective service
6 agencies that have been unable to rehabilitate the parent.

7 ~~f3~~~~f4~~(3) In considering any of the factors in
8 subsection ~~f2~~ ~~f3~~ (2) in terminating the parent-child
9 relationship, the court shall give primary consideration to
10 the physical, mental, and emotional conditions and needs of
11 the child. The court shall review and, if necessary, order
12 an evaluation of the child's or the parent's physical,
13 mental, and emotional conditions.

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15 part upon a finding by the court following hearing if:

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17 parent is so severely mentally ill that such person cannot
18 assume the role of parent;

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20 such treatment plan is not practical considering the
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16 of Title 41, chapter 3, part 4, and the provisions of Title
17 41, chapter 3, part 4, apply to [section 1].

18 NEW SECTION. **Section 5.** Effective date. [This act] is
19 effective July 1, 1991.

-End-

RE-REFERRED AND
 APPROVED BY COMMITTEE
 ON APPROPRIATIONS
 AS AMENDED

HOUSE BILL NO. 299

INTRODUCED BY S. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PERMANENT
 PLACEMENT OF CHILDREN IN FOSTER CARE; ~~REQUIRING~~ AUTHORIZING
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 LIMITS; ~~APPROPRIATING MONEY TO THE DEPARTMENT OF FAMILY~~
~~SERVICES TO IMPLEMENT~~ IMPLEMENTING A PERMANENCY PLANNING
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 transferred to the department under this part and:

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 a cumulative total period of 1 year or longer pursuant to
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 25 authority: ~~†1†~~-There-is-appropriated-from-the--general--fund

1 to-the PERMANENCY PLANNING PROJECT. THE department of family
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3 ~~and-ending-June--307--19937--to~~ SHALL implement a 2-year
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 10, 1991

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 299 (third reading copy -- blue), respectfully report that House Bill No. 299 be amended and as so amended be concurred in:

1. Page 3, line 2.

Following: "plan"

Insert: "approved by the court"

Signed:


Judy H. Jacobson, Chairman

LB 4-10-91
Amd. Coord.

Sec. of Senate

SENATE
HB 299

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2 INTRODUCED BY S. RICE

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22 willfully refused to remedy the circumstances that cause the
23 child to be in an out-of-home placement; or

24 (2) the child has been in an out-of-home placement for
25 a cumulative total period of 2 years or longer pursuant to

1 court order, the parent has been unable to remedy the
2 circumstances that cause the child to be in an out-of-home
3 placement, and there is a substantial likelihood that the
4 parent will not be capable of exercising proper and
5 effective parental care and control in the near future.

6 **Section 2.** Section 41-3-609, MCA, is amended to read:

7 "41-3-609. Criteria for termination. (1) The court may
8 order a termination of the parent-child legal relationship
9 upon a finding that ~~the circumstances contained in~~
10 ~~subsection (1)(a), (1)(b), or (1)(c), as follows,~~ ANY OF THE
11 FOLLOWING CIRCUMSTANCES exist:

12 (a) the parents have relinquished the child pursuant to
13 40-6-135;

14 (b) the child has been abandoned by his parents as set
15 forth in 41-3-102(3)(d); or

16 (c) the child is an adjudicated youth in need of care
17 and both of the following exist:

18 (i) an appropriate treatment plan that has been
19 approved by the court has not been complied with by the
20 parents or has not been successful; and

21 (ii) the conduct or condition of the parents rendering
22 them unfit is unlikely to change within a reasonable time;

23 OR

24 ~~(2) The court shall order a termination of the~~
25 ~~parent-child relationship upon a finding that~~

1 (D) the parent has failed to successfully complete a
2 treatment plan APPROVED BY THE COURT within the time periods
3 allowed for the child to be in foster care under [section 1]
4 unless it orders other permanent legal custody under
5 [section 1].

6 ~~†2†~~†3†(2) In determining whether the conduct or
7 condition of the parents is unlikely to change within a
8 reasonable time, the court must enter a finding that
9 continuation of the parent-child legal relationship will
10 likely result in continued abuse or neglect or that the
11 conduct or the condition of the parents renders the parents
12 unfit, unable, or unwilling to give the child adequate
13 parental care. In making such determinations, the court
14 shall consider but is not limited to the following:

15 (a) emotional illness, mental illness, or mental
16 deficiency of the parent of such duration or nature as to
17 render the parent unlikely to care for the ongoing physical,
18 mental, and emotional needs of the child within a reasonable
19 time;

20 (b) a history of violent behavior by the parent;

21 (c) a single incident of life-threatening or gravely
22 disabling injury to or disfigurement of the child caused by
23 the parent;

24 (d) excessive use of intoxicating liquor or of a
25 narcotic or dangerous drug that affects the parent's ability

1 to care and provide for the child;

2 (e) present judicially ordered long-term confinement of
3 the parent;

4 (f) the injury or death of a sibling due to proven
5 parental abuse or neglect; and

6 (g) any reasonable efforts by protective service
7 agencies that have been unable to rehabilitate the parent.

8 ~~†3†~~†4†(3) In considering any of the factors in
9 subsection ~~†2†~~ ~~†3†~~ (2) in terminating the parent-child
10 relationship, the court shall give primary consideration to
11 the physical, mental, and emotional conditions and needs of
12 the child. The court shall review and, if necessary, order
13 an evaluation of the child's or the parent's physical,
14 mental, and emotional conditions.

15 ~~†4†~~†5†(4) A treatment plan is not required under this
16 part upon a finding by the court following hearing if:

17 (a) two medical doctors submit testimony that the
18 parent is so severely mentally ill that such person cannot
19 assume the role of parent;

20 (b) the parent is incarcerated for more than 1 year and
21 such treatment plan is not practical considering the
22 incarceration; or

23 (c) the death of a sibling caused by abuse or neglect
24 by the parent has occurred."

25 NEW SECTION. Section 3. Appropriation-----miriñg

1 authority: ~~{1}-There-is-appropriated-from-the-general-fund~~
2 ~~to-the PERMANENCY PLANNING PROJECT. THE~~ department of family
3 services \$371,200--for-the-biennium-beginning-July-1,1991,
4 and-ending-June--30,--1993,--to SHALL implement a 2-year
5 permanency planning project, including a case review of all
6 children in foster care over a 3-month period to:

7 (a)(1) determine what needs to be done in each case to
8 assure a permanent, stable home for each child; and

9 (b)(2) assist the department social workers in
10 effectively finding and using the resources to implement
11 positive and realistic permanency plan options for the
12 children.

13 ~~{2}-The-department-may-hire-five-employees-to-serve--as~~
14 ~~permanency--planning--specialists--or--contract--for--these~~
15 ~~services.~~

16 NEW SECTION. Section 4. Codification instruction.
17 [Section 1] is intended to be codified as an integral part
18 of Title 41, chapter 3, part 4, and the provisions of Title
19 41, chapter 3, part 4, apply to [section 1].

20 NEW SECTION. Section 5. Effective date. [This act] is
21 effective July 1, 1991.

-End-