

HOUSE BILL 564

Introduced by Cocchiarella, et al.

2/01	Introduced
2/01	Referred to Human Services & Aging
2/02	First Reading
2/02	Fiscal Note Requested
2/08	Fiscal Note Received
2/12	Fiscal Note Printed
2/15	Hearing
2/15	Tabled in Committee

1 *Access* BILL NO. *564*
 2 INTRODUCED BY *Cassidy* *Yellowtail*
 3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES
 4 *Benedict* *Harriet Hoffman* *Walter Hallgren* *John Savage* *Randy* *Thomas*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE PARENTS
 6 GUARDIAN OR PERSONS HAVING LEGAL CUSTODY OF A YOUTH TO
 7 CONTRIBUTE TO THE COST OF COURT-ORDERED MEDICAL OR
 8 PSYCHOLOGICAL EVALUATIONS, TREATMENT, COUNSELING, OR OTHER
 9 SERVICES FOR A YOUTH ALLEGED OR FOUND TO BE ABUSED,
 10 NEGLECTED, OR DEPENDENT; TO RESTRICT THE DISCRETION OF THE
 11 COURT IN ORDERING EVALUATIONS, TREATMENT, OR OTHER SERVICES
 12 THAT OBLIGATE FUNDING FROM THE DEPARTMENT OF FAMILY
 13 SERVICES; AMENDING SECTIONS 41-3-403, 41-3-404, AND
 14 41-3-406, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

16 **Section 1.** Section 41-3-403, MCA, is amended to read:

17 **"41-3-403. Order for immediate protection of youth.**

18 (1) (a) Upon the filing of a petition for temporary
 19 investigative authority and protective services, the court
 20 may issue an order granting such relief as may be required
 21 for the immediate protection of the youth.
 22

23 (b) The order, along with the petition and supporting
 24 documents, shall be served by a peace officer or a
 25 representative of the department of family services on the

1 person or persons named therein. When the youth is placed in
 2 a medical facility or protective facility, the department
 3 shall notify the parents or parent, guardian, or other
 4 person having legal custody of the youth, at the time the
 5 placement is made or as soon thereafter as possible.

6 (c) The order shall require the person served to comply
 7 immediately with the terms thereof or to appear before the
 8 court issuing the order on the date specified and show cause
 9 why he has not complied with the order. The show cause
 10 hearing must be conducted within 20 days of the issuance of
 11 the order by the judge or a master appointed by the judge.
 12 The person filing the petition has the burden of presenting
 13 evidence establishing probable cause for the issuance of the
 14 order. Except as otherwise provided herein, the rules of
 15 civil procedure shall apply.

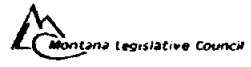
16 (d) Upon a failure to comply or show cause the court
 17 may hold the person in contempt or place temporary legal
 18 custody of the youth with the department of family services
 19 until further order.

20 (2) The court may grant the following kinds of relief:

21 (a) right of entry by a peace officer or department of
 22 family services worker;

23 (b) medical and psychological evaluation of youth or
 24 parents, guardians, or person having legal custody;

25 (c) require the youth, parents, guardians, or person



1 having legal custody to receive counseling services;

2 (d) place the youth in temporary medical facility or
3 facility for protection of the youth;

4 (e) require the parents, guardian, or other person
5 having custody to furnish such services as the court may
6 designate;

7 (f) such other temporary disposition as may be required
8 in the best interest of the youth.

9 (3) The court may not order medical or psychological
10 evaluations, treatment, counseling, or other services that
11 obligate funding from the department without the
12 department's approval or without a determination, following
13 an investigation as provided in subsection (4), that the
14 parents, guardian, or persons having legal custody of the
15 youth are financially unable to pay a contribution for the
16 cost of court-ordered services.

17 (4) The court shall order an investigation into the
18 financial ability of the parents, guardian, or persons
19 having legal custody of the youth to pay a contribution for
20 the cost of services ordered by the court under this
21 section. If they are financially able, the court shall order
22 the parents, guardian, or persons having legal custody of
23 the youth to pay all or part of the cost of services."

24 **Section 2.** Section 41-3-404, MCA, is amended to read:

25 "41-3-404. Adjudicatory hearing -- temporary

1 disposition. (1) In the adjudicatory hearing on a petition
2 under 41-3-401, the court shall determine whether the youth
3 is a youth in need of care and ascertain, as far as
4 possible, the cause.

5 (2) The court shall hear evidence regarding the
6 residence of the youth, the whereabouts of the parents,
7 guardian, or nearest adult relative, and any other matters
8 the court considers relevant in determining the status of
9 the youth.

10 (3) In all civil and criminal proceedings relating to
11 abuse, neglect, or dependency, none of the privileges
12 related to the examination or treatment of the child and
13 granted in Title 26, chapter 1, part 8, except the
14 attorney-client privilege granted by 26-1-803, apply.

15 (4) (a) If the court determines that the youth is not
16 an abused, neglected, or dependent child, the petition shall
17 be dismissed and any order made pursuant to 41-3-403 shall
18 be vacated.

19 (b) If the court determines that the youth is an
20 abused, neglected, or dependent child, the court shall set a
21 date for a dispositional hearing to be conducted within 30
22 days and order any necessary or required investigations. The
23 court may issue a temporary dispositional order pending the
24 dispositional hearing. The temporary dispositional order may
25 provide for any of the forms of relief listed in

1 41-3-403(2)."

2 **Section 3.** Section 41-3-406, MCA, is amended to read:

3 "41-3-406. Dispositional hearing. (1) If a youth is
4 found to be abused, neglected, or dependent under 41-3-404,
5 the court after the dispositional hearing may enter its
6 judgment making any of the following dispositions to protect
7 the welfare of the youth:

8 (1)(a) permit the youth to remain with his parents or
9 guardian subject to those conditions and limitations the
10 court may prescribe;

11 (2)(b) grant an order of limited emancipation to a
12 youth who is 16 years of age or older as provided in
13 41-3-408;

14 (3)(c) transfer legal custody to any of the following:

15 (a)(i) department of family services;

16 (b)(ii) a child-placing agency willing and able to
17 assume responsibility for the education, care, and
18 maintenance of the youth and which is licensed or otherwise
19 authorized by law to receive and provide care of the youth;
20 or

21 (c)(iii) a relative or other individual who, after study
22 by a social service agency designated by the court, is found
23 by the court to be qualified to receive and care for the
24 youth;

25 (4)(d) order any party to the action to do what is

1 necessary to give effect to the final disposition, including
2 undertaking medical and psychological evaluations,
3 treatment, and counseling;

4 (5)(e) order such further care and treatment as the
5 court may deem in the best interest of the youth.

6 (2) The court may not order medical or psychological
7 evaluations, treatment, counseling, or other services that
8 obligate funding from the department without the
9 department's approval or without a determination, following
10 an investigation as provided in subsection (3), that the
11 parents, guardian, or persons having legal custody of the
12 youth are financially unable to pay a contribution for the
13 cost of court-ordered services.

14 (3) The court shall order an investigation into the
15 financial ability of the parents, guardian, or persons
16 having legal custody of the youth to pay a contribution for
17 the cost of services ordered by the court under this
18 section. If they are financially able, the court shall order
19 the parents, guardian, or persons having legal custody of
20 the youth to pay all or part of the cost of services."

21 NEW SECTION. Section 4. Coordination instruction. If
22 ____ Bill No. ____ [LC 31] is passed and approved and if it
23 includes a section that amends 41-3-406 to require a youth's
24 parents or guardians to pay a contribution for the cost of a
25 youth's care or other services ordered by the court under

LC 1131/01

1 41-3-406, then [section 3 of this act], amending 41-3-406,
2 is void.

3 NEW SECTION. **Section 5.** Effective date. [This act] is
4 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 HB0564, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill for an act entitled: "An act to require the parents, guardian, or persons having legal custody of a youth to contribute to the cost of court-ordered medical or psychological evaluations, treatment, counseling, or other services for a youth alleged or found to be abused, neglected, or dependent; to restrict the discretion of the court in ordering evaluation, treatment, or other services that obligate funding from the Department of Family Services; amending sections 41-3-403, 41-3-404, and 41-3-406, MCA; and providing an effective date.

ASSUMPTIONS:

1. Estimates were obtained from regional administrative staff. The current level cost of \$35,000 is an estimate of court order costs obligating funding from the Department under current court discretion.
2. Regional staff estimated 10% of parties involved in these costs may be able to provide a contribution to the cost for a contribution of \$3,500 annually.
3. The parental contribution would be paid by the parent directly to the evaluator or other service provider.

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>						
Benefits & Claims	35,000	31,500	(3,500)	35,000	31,500	(3,500)
<u>Funding:</u>						
General Fund	35,000	31,500	(3,500)	35,000	31,500	(3,500)



 ROD SUNDESTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning



 VICKI COCCHIARELLA, PRIMARY SPONSOR DATE

Fiscal Note for HB0564, as introduced

HB564