

HOUSE BILL 148

IN THE HOUSE

January 13, 1979

Introduced and referred to
Committee on Judiciary.

HOUSE BILL NO. 148

INTRODUCED BY J. Rosenthal
BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE INVESTIGATORY DUTIES OF THE COUNTY WELFARE DEPARTMENT CONCERNING ABUSED, NEGLECTED, OR DEPENDENT CHILDREN; REQUIRING THE COURT TO DETERMINE THE EXTENT TO WHICH A PARENT OR GUARDIAN IS ABLE TO ASSIST IN PAYING FOR THE PLACEMENT OF CHILDREN IN A FOSTER HOME, CHILD CARE AGENCY, GROUP HOME, OR PRIVATE TREATMENT FACILITY; ADDING GUARDIANS AS PERSONS WHOM THE COURT MAY ORDER TO PAY FOR THE COST OF SUPPORTING A CHILD IN A COURT-ORDERED PLACEMENT; AND PROVIDING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES WITH THE AUTHORITY TO CONDUCT FINANCIAL INVESTIGATIONS AND ADOPT RULES TO OBTAIN RECOVERY FROM PERSONS LIABLE FOR THE CARE OF THEIR CHILDREN WHEN PLACED VOLUNTARILY INTO A FOSTER HOME, CHILD CARE AGENCY, GROUP HOME, OR PRIVATE TREATMENT FACILITY; AMENDING SECTIONS 41-3-404 AND 41-3-405, MCA."

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

Section 1. Section 41-3-404, MCA, is amended to read:
"41-3-404. Hearing. (1) In a hearing on a petition

under 41-3-401, the court shall determine whether said youth is an abused, neglected, or dependent child and ascertain, as far as possible, the cause thereof.

(2) The court shall hear evidence regarding the residence of the child, whereabouts of the--parents his parent, guardian, or nearest adult relative, the financial ability of any such-parents-or parent or guardian to pay the cost of care of the child, whether or how long the child has been maintained in whole or in part by public or private charity, and may shall take into consideration the report of the county welfare department filed with the clerk of the court, pursuant to 41-3-405. A copy of the written report shall be provided to all parties to the proceeding before the time set for hearing.

(3) If the child is ordered placed in a foster home, child care agency, group home, or private treatment facility, the court shall determine the portion of the cost of care that his parent or guardian is financially able to pay. The court shall make an order requiring the parent or guardian to pay an amount the court considers proper.

(3)(4) In all civil and criminal proceedings relating to abuse, neglect, or dependency, the doctor-patient privilege and husband-wife privilege shall may not apply to the extent any testimony relates to such matters."

Section 2. Section 41-3-405, MCA, is amended to read:

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1 "41-3-405. Investigation of parents' financial
 2 ability. (1) Whenever any petition is filed with the clerk
 3 of the district court alleging abuse, neglect, or
 4 dependency, the clerk of--such--court shall immediately
 5 deliver to the county welfare department of the county in
 6 which the petition is filed, a copy of the petition with a
 7 notation thereon giving the day and time fixed by the court
 8 for hearing the petition. Upon receipt of such-copy--of the
 9 petition, the county welfare department shall make conduct
 10 an investigation for the purpose of ascertaining whether the
 11 parent, or--parents,--if--any guardian, or nearest adult
 12 relative of the child ~~live lives~~ within the county, and ~~the~~
 13 county welfare department shall investigate the financial
 14 ability of such ~~the~~ parent or ~~parents,--if--any,~~ guardian to
 15 pay the cost of supporting the child in a foster home, child
 16 care agency, group home, or private treatment facility and
 17 shall file with the clerk of--such--court and with the
 18 department, before the time fixed for the hearing, a written
 19 report of such investigation. ~~If--upon--hearing--the--court~~
 20 ~~finds--and-determines--that--the--child--has--parents--or--a--parent~~
 21 ~~who--is--financially--able--to--pay--a--part--or--the--whole--of--such~~
 22 ~~cost--and--the--child--is--ordered--placed--in--a--foster--home,--the~~
 23 ~~court--shall--make--an--order--requiring--such--parents--or--parent~~
 24 ~~to--pay--such--amount--as--the--court--may--deem--proper. A copy of~~
 25 ~~the--written--report--shall--be--provided--to--all--parties--to--the~~

1 ~~proceeding--before--the--time--filed--for--hearing. In the~~
 2 preparation of such investigation, the county welfare
 3 department shall use the guidelines, criteria, and format
 4 established by the department.

5 ~~(2) The investigation and report on the financial~~
 6 ability of the parent or guardian may not be conducted
 7 whenever a petition is filed alleging abuse, neglect, or
 8 dependency for the purpose of obtaining permanent custody of
 9 a child with the right to consent to adoption."

10 ~~NEW SECTION. Section 3. Voluntary placements --~~
 11 recovery from persons liable -- investigations -- authority
 12 to adopt rules. (1) A payment of public assistance money
 13 made to or for the benefit of a child who is voluntarily
 14 placed into a foster home, child care agency, group home, or
 15 private treatment facility creates a debt due and owing to
 16 the department of social and rehabilitation services by the
 17 parent or other person who is legally responsible for the
 18 support of the child in an amount equal to the amount of
 19 public assistance paid.

20 ~~(2) An investigation shall be conducted by the county~~
 21 welfare department to determine the extent of the financial
 22 ability of a parent or other person to pay the cost of
 23 supporting the child placed in a foster home, child care
 24 agency, group home, or private treatment facility.

25 ~~(3) The parent or other person is presumed able to pay~~

1 a part or whole of the cost of supporting the child except
2 when the county welfare department's financial investigation
3 and report determines otherwise.

4 (4) The parent or the other person financially
5 obligated for the care of the child shall cooperate fully
6 with the county welfare department in determining the
7 financial ability to pay the cost of supporting the child.

8 (5) The department of social and rehabilitation
9 services may execute any administrative remedy to obtain
10 reimbursement of the money expended for the benefit of the
11 child.

12 (6) The department of social and rehabilitation
13 services shall adopt rules necessary to carry out the
14 purposes of Title 41, chapter 3, part 4.

15 Section 4. Codification. It is intended that section 4
16 be codified as an integral part of Title 41, chapter 3, part
17 4, and the provisions of Title 41, chapter 3, part 4, apply
18 to section 4.

-End-

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