

HOUSE BILL NO. 665

INTRODUCED BY KEENAN, JACOBSON, HALLIGAN, MAZUREK,  
REAM, LORY, FRITZ, HANSEN, KADAS, BRADLEY

IN THE HOUSE

February 4, 1985	Introduced and referred to Committee on Judiciary.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.  Considered correctly engrossed.
February 27, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 23, 1985	Committee recommend bill be concurrent in. Report adopted.
March 27, 1985	Second reading, concurred in.
March 29, 1985	Third reading, concurred in. Ayes, 49; Noes, 0.  Returned to House.

IN THE HOUSE

March 29, 1985	Received from Senate.  Sent to enrolling.  Reported correctly enrolled.
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HOUSE BILL NO. 665

INTRODUCED BY Keenan Jackson Kelly, Ryan Long Fritz, Della Jacobson, Kacie Badley

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURES INVOLVED IN TERMINATING THE PARENT-CHILD LEGAL RELATIONSHIP; AMENDING SECTIONS 41-3-603, 41-3-607, 41-3-609, AND 41-3-610, MCA."

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

Section 1. Section 41-3-603, MCA, is amended to read:

"41-3-603. Definitions. As used in this part, unless the context otherwise requires, the following definitions apply:

(1) "Guardian ad litem" means a person appointed to represent a child who is the subject of a written-motion petition for the termination of the parent-child legal relationship.

(2) "Youth in need of care" means a youth who is dependent, abused, or neglected as defined in 41-3-102.

(3) "Parent-child legal relationship" means the legal relationship that exists between a child and his birth or adoptive parents as provided in Title 40, chapter 6, part 2, unless that relationship has been terminated by competent judicial decree as provided in this part or in 40-6-135 or in 40-6-234.

(4) "Treatment plan" means a written agreement between the department or court and the parents that includes action that must be taken to resolve the condition or conduct of the parents that resulted in the need for protective services for the child. The treatment plan may involve other parties, if necessary, for protective services."

Section 2. Section 41-3-607, MCA, is amended to read:

"41-3-607. Petition for termination -- separate hearing -- right to counsel -- no jury trial. (1) The termination of a parent-child legal relationship shall be considered only after the filing of a petition pursuant to 41-3-401 alleging the factual grounds for termination. Termination of a parent-child legal relationship shall be considered at a dispositional hearing held pursuant to 41-3-406, following or together with an adjudicatory hearing held pursuant to 41-3-404, within 60 days after the filing of the petition.

(2) After the county attorney, attorney general, or an attorney hired by the county welfare department files a petition for termination of a parent-child relationship pursuant to this part, parents shall be advised of the right to counsel, and counsel shall be appointed in accordance with 41-3-401(12).

(3) An attorney who whenever possible shall be the child's previously appointed guardian ad litem shall be



1 appointed to represent the child's best interests in any  
 2 hearing determining the involuntary termination of the  
 3 parent-child legal relationship. The attorney guardian ad  
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13 "41-3-609. Criteria for termination. (1) The court may  
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 15 upon a finding that the circumstances contained in  
 16 subsection (1)(a), (1)(b), or (1)(c), as follows, exist:

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 18 to ~~40-6-132 through 40-6-134~~ 40-6-135;

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

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

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

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 2 them unfit is unlikely to change within a reasonable time.

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17 NEW SECTION. Section 5. Extension of authority. Any  
18 existing authority of the department of social and  
19 rehabilitation services to make rules on the subject of the  
20 provisions of this act is extended to the provisions of this  
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APPROVED BY COMMITTEE  
ON JUDICIARY

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11 child's or the parent's physical, mental, and emotional  
12 conditions.

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

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

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

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

23 Section 4. Section 41-3-610, MCA, is amended to read:

24 "41-3-610. Review following termination. (1) At the  
25 conclusion of a hearing in which the court orders

1 termination of the parent-child legal relationship, the  
2 court shall order that a review hearing be held within 180  
3 days following the date of the termination to determine if  
4 the child has been permanently placed.

5 (2) At the review hearing, the agency or individual  
6 vested with the custody of the child shall report to the  
7 court whether the plan for permanent placement of the child  
8 has been accomplished. ~~The~~ If the child is not in a  
9 permanent placement at the time of the review hearing, the  
10 guardian ad litem shall submit to the court a written report  
11 with recommendations, based upon an independent  
12 investigation, for disposition meeting the best interests of  
13 the child.

14 (3) The court may order the agency or individual  
15 vested with custody of the child to report, at appropriate  
16 intervals, on the status of the child until the plan for  
17 permanent placement of the child has been accomplished."

18 NEW SECTION. Section 5. Extension of authority. Any  
19 existing authority of the department of social and  
20 rehabilitation services to make rules on the subject of the  
21 provisions of this act is extended to the provisions of this  
22 act.

-End-