

HB 665 INTRODUCED BY HANNAH
LIMIT EMERGENCY REMOVAL OF YOUTH TO PEACE OFFICERS
WITH JUDICIAL ORDER

2/09 INTRODUCED
2/09 REFERRED TO JUDICIARY
2/19 HEARING
2/23 TABLED IN COMMITTEE

1 House BILL NO. 665
2 INTRODUCED BY Hend

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE REMOVAL OF
5 CHILDREN IN EMERGENCY DEPENDENT AND NEGLECT CIRCUMSTANCES TO
6 PEACE OFFICERS UNDER AUTHORITY OF AN ORDER BY A JUDGE OR
7 JUSTICE OF THE PEACE; AND AMENDING SECTION 41-3-301, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 41-3-301, MCA, is amended to read:

11 "41-3-301. Emergency protective service. (1) ~~Any child~~
12 ~~protective--social--worker--of--the--department--of--social--and~~
13 ~~rehabilitation--services--the--county--welfare--department--a~~
14 ~~peace--officer--or--the--county--attorney--who--has--reason--to~~
15 ~~believe--any--youth--is--in--immediate--or--apparent--danger--of--harm~~
16 Pursuant to an order issued under [section 2], a peace
17 officer may immediately remove the a youth and place him in
18 a protective facility. ~~The department may make a request for~~
19 ~~further--assistance--from--the--law--enforcement--agency--or--take~~
20 ~~appropriate--legal--action--The--person--or--agency--placing--the~~
21 ~~child~~ peace officer shall notify the parents, parent,
22 guardian, or other person having legal custody of the youth
23 at the time the placement removal is made or as soon
24 thereafter as possible.

25 (2) No child who has been removed from his home or any

1 other place for his protection or care may be placed in a
2 jail.

3 (3) A petition shall be filed within 48 hours of
4 emergency placement of a child unless arrangements
5 acceptable to the agency for the care of the child have been
6 made by the parents.

7 (4) The department of social and rehabilitation
8 services and the county welfare department shall make such
9 necessary arrangements for the youth's well-being as are
10 required prior to the court hearing."

11 NEW SECTION. Section 2. Prerequisites for removal of
12 youth. (1) No youth may be removed pursuant to 41-3-301
13 unless, upon written or telephonic application, a district
14 court judge or justice of the peace has issued an order for
15 the removal of the youth.

16 (2) The application for such an order must be made
17 under oath or affirmation and state:

18 (a) the name and, if known, the address of the youth;
19 and

20 (b) facts necessary to show probable cause that the
21 youth is in immediate or apparent danger of physical injury
22 or physical sexual abuse.

23 (3) Nothing in this section is intended to prevent law
24 enforcement or emergency medical personnel from taking such
25 immediate action as may be necessary to protect the health



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1 of any youth in any circumstance and from providing the
2 youth with necessary medical care, including transportation
3 to a medical facility.

-End-