

SB 209 INTRODUCED BY HALLIGAN
CHILD ABUSE/NEGLECT -- DEPARTMENT OF SOCIAL &
REHABILITATION SERVICES PERMANENT CUSTODY
TO ALLOW ADOPTION
BY REQUEST OF DEPARTMENT OF SOCIAL &
REHABILITATION SERVICES

1/23 RULES SUSPENDED TO ALLOW INTRODUCTION
OF BILL AFTER DEADLINE 49 0
1/24 INTRODUCED
1/24 REFERRED TO JUDICIARY
2/11 HEARING
DIED IN COMMITTEE

1 *Senate* BILL NO. *209*
 2 INTRODUCED BY *Holman*
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
 4 REHABILITATION SERVICES

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LAW
 7 PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY
 8 PROCEEDINGS TO AUTHORIZE PETITIONS FOR PERMANENT LEGAL
 9 CUSTODY WITH THE RIGHT TO CONSENT TO ADOPTION; TO PROVIDE
 10 SERVICE BY PUBLICATION; AMENDING SECTION 41-3-401, MCA; AND
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 41-3-401, MCA, is amended to read:
 15 "41-3-401. Abuse, neglect, and dependency petitions.
 16 (1) The county attorney, attorney general, or an attorney
 17 hired by the county welfare department or office of human
 18 services shall be responsible for filing all petitions
 19 alleging abuse, neglect, or dependency. The county attorney
 20 or attorney general, or an attorney hired by the county
 21 welfare department or office of human services with the
 22 written consent of the county attorney or attorney general,
 23 may require all state, county, and municipal agencies,
 24 including law enforcement agencies, to conduct such
 25 investigations and furnish such reports as may be necessary.

1 Investigations as to financial status may not be made prior
 2 to the adjudicatory hearing provided for in 41-3-404.

3 (2) Upon receipt of a petition, the court shall set a
 4 date for an adjudicatory hearing on the petition. Such
 5 petitions shall be given preference by the court in setting
 6 hearing dates and must be heard within 20 days of the filing
 7 of the petition.

8 (3) A petition alleging abuse, neglect, or dependency
 9 is a civil action brought in the name of the state of
 10 Montana. The rules of civil procedure shall apply except as
 11 herein modified. Proceedings under a petition are not a bar
 12 to criminal prosecution.

13 (4) The parents or parent, guardian, or other person
 14 or agency having legal custody of the youth named in the
 15 petition, if residing in the state, shall be served
 16 personally with a copy of the petition and summons at least
 17 5 days prior to the date set for hearing. If such person or
 18 agency ~~resides-out-of-state-or-is-not-found-within-the-state~~
 19 cannot be served personally, the rules of civil procedure
 20 relating to service ~~of-process-in-such-cases~~ by publication
 21 shall apply.

22 (5) In the event personal service cannot be made upon
 23 the parents or parent, guardian, or other person or agency
 24 having legal custody, the court shall appoint an attorney to
 25 represent the unavailable party where in the opinion of the



1 court the interests of justice require.

2 (6) If a parent of the child is a minor, notice shall
3 be given to the minor parent's parents or guardian, and if
4 there is no guardian the court shall appoint one.

5 (7) Any person interested in any cause under this
6 chapter has the right to appear.

7 (8) Except where the proceeding is instituted or
8 commenced by a representative of the department of social
9 and rehabilitation services, a citation shall be issued and
10 served upon a representative of the department prior to the
11 court hearing.

12 (9) The petition shall:

13 (a) state the nature of the alleged abuse, neglect, or
14 dependency;

15 (b) state the full name, age, and address of the youth
16 and the name and address of his parents or guardian or
17 person having legal custody of the youth;

18 (c) state the names, addresses, and relationship to
19 the youth of all persons who are necessary parties to the
20 action.

21 (10) The petition may ask for the following relief:

22 (a) temporary investigative authority and protective
23 services;

24 (b) temporary legal custody;

25 (c) termination of the parent-child legal relationship

1 and permanent legal custody with the right to consent to
2 adoption;

3 (d) any combination of the above or such other relief
4 as may be required for the best interest of the youth.

5 (11) The petition may be modified for different relief
6 at any time within the discretion of the court.

7 (12) The court may at any time on its own motion or the
8 motion of any party appoint counsel for any indigent party.

9 NEW SECTION. Section 2. Effective date. This act is
10 effective on passage and approval.

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