

SENATE BILL NO. 256

INTRODUCED BY JACOBSON, RUSSELL

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

IN THE SENATE

JANUARY 30, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 10, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1987	PRINTING REPORT.
FEBRUARY 13, 1987	SECOND READING, DO PASS.
FEBRUARY 14, 1987	ENGROSSING REPORT.
FEBRUARY 16, 1987	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 18, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 4, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1987	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 9, 1987	THIRD READING, CONCURRED IN. AYES, 85; NOES, 10.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 18, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

MARCH 19, 1987

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

MARCH 21, 1987

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 9, 1987

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 10, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 13, 1987

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 15, 1987

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

ON MOTION, RULES SUSPENDED TO PLACE
BILL ON THIRD READING THIS DAY.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 16, 1987

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 17, 1987

SENT TO ENROLLING.

1 Senate BILL NO. 256
 2 INTRODUCED BY Jacobsen Russell
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
 4 AND REHABILITATION SERVICES
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE
 7 RESPONSIBILITY OF THE DEPARTMENT OF SOCIAL AND
 8 REHABILITATION SERVICES TO CONDUCT CUSTODY INVESTIGATIONS
 9 AND TO ALLOW THE DEPARTMENT TO CHARGE A FEE FOR CUSTODY
 10 INVESTIGATIONS; AMENDING SECTION 40-4-215, MCA; AND
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 12

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

14 Section 1. Section 40-4-215, MCA, is amended to read:

15 "40-4-215. Investigations and reports. (1) In
 16 contested custody proceedings and in other custody
 17 proceedings if a parent or the child's custodian so
 18 requests, the court may order an investigation and report
 19 concerning custodial arrangements for the child. The cost of
 20 the investigation and report shall be paid according to the
 21 final order.

22 (2) The court may not order the department of social
 23 and rehabilitation services to conduct the investigation if
 24 another person or agency qualified to conduct the
 25 investigation is available. If the department conducts the

1 investigation, the department may charge a reasonable fee to
 2 be paid according to the final order of the court.

3 ~~(2)~~(3) In preparing his report concerning a child, the
 4 investigator may consult any person who may have information
 5 about the child and his potential custodial arrangements.
 6 Upon order of the court, the investigator may refer the
 7 child to professional personnel for diagnosis. The
 8 investigator may consult with and obtain information from
 9 medical, psychiatric, or other expert persons who have
 10 served the child in the past without obtaining the consent
 11 of the parent or the child's custodian; but the child's
 12 consent must be obtained if he has reached the age of 16
 13 unless the court finds that he lacks mental capacity to
 14 consent. If the requirements of subsection ~~(3)~~ (4) are
 15 fulfilled, the investigator's report may be received in
 16 evidence at the hearing.

17 ~~(3)~~(4) The court shall mail the investigator's report
 18 to counsel and to any party not represented by counsel at
 19 least 10 days prior to the hearing. The investigator shall
 20 make available to counsel and to any party not represented
 21 by counsel the investigator's file of underlying data and
 22 reports, complete texts of diagnostic reports made to the
 23 investigator pursuant to the provisions of subsection ~~(2)~~
 24 (3), and the names and addresses of all persons whom the
 25 investigator has consulted. Any party to the proceeding may

1 call the investigator and any person whom he has consulted
2 for cross-examination. A party may not waive his right of
3 cross-examination prior to the hearing."

4 NEW SECTION. Section 2. Extension of authority. Any
5 existing authority of the department of social and
6 rehabilitation services to make rules on the subject of the
7 provisions of this act is extended to the provisions of this
8 act.

9 NEW SECTION. Section 3. Effective date. This act is
10 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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4 AND REHABILITATION SERVICES

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8 REHABILITATION-SERVICES-TO--CONDUCT--CUSTODY--INVESTIGATIONS
9 AND--TO ALLOW THE DEPARTMENT OF SOCIAL AND REHABILITATION
10 SERVICES TO CHARGE A FEE FOR CUSTODY INVESTIGATIONS;
11 AMENDING SECTION 40-4-215, MCA; AND PROVIDING AN IMMEDIATE
12 EFFECTIVE DATE."

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19 requests, the court may order an investigation and report
20 concerning custodial arrangements for the child. IF THE
21 COURT ORDERS THE DEPARTMENT OF SOCIAL AND REHABILITATION
22 SERVICES TO CONDUCT THE INVESTIGATION, THE DEPARTMENT MAY
23 CHARGE A REASONABLE FEE, TO BE DETERMINED BY THE COURT. The
24 cost of the investigation and report shall be paid according
25 to the final order.

1 ~~(2) The court may not order the department of social~~
2 ~~and rehabilitation services to conduct the investigation if~~
3 ~~another person or agency qualified to conduct the~~
4 ~~investigation is available, if the department conducts the~~
5 ~~investigation, the department may charge a reasonable fee to~~
6 ~~be paid according to the final order of the court.~~

7 (2)(3) In preparing his report concerning a child,
8 the investigator may consult any person who may have
9 information about the child and his potential custodial
10 arrangements. Upon order of the court, the investigator may
11 refer the child to professional personnel for diagnosis. The
12 investigator may consult with and obtain information from
13 medical, psychiatric, or other expert persons who have
14 served the child in the past without obtaining the consent
15 of the parent or the child's custodian; but the child's
16 consent must be obtained if he has reached the age of 16
17 unless the court finds that he lacks mental capacity to
18 consent. If the requirements of subsection (3) (3) are
19 fulfilled, the investigator's report may be received in
20 evidence at the hearing.

21 (3)(4)(3) The court shall mail the investigator's
22 report to counsel and to any party not represented by
23 counsel at least 10 days prior to the hearing. The
24 investigator shall make available to counsel and to any
25 party not represented by counsel the investigator's file of



1 underlying data and reports, complete texts of diagnostic
2 reports made to the investigator pursuant to the provisions
3 of subsection ~~(2)~~ ~~(3)~~ (2), and the names and addresses of
4 all persons whom the investigator has consulted. Any party
5 to the proceeding may call the investigator and any person
6 whom he has consulted for cross-examination. A party may not
7 waive his right of cross-examination prior to the hearing."

8 NEW SECTION. Section 2. Extension of authority. Any
9 existing authority of the department of social and
10 rehabilitation services to make rules on the subject of the
11 provisions of this act is extended to the provisions of this
12 act.

13 NEW SECTION. Section 3. Effective date. This act is
14 effective on passage and approval.

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8 ~~REHABILITATION SERVICES TO CONDUCT CUSTODY INVESTIGATIONS~~
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22 SERVICES TO CONDUCT THE INVESTIGATION, THE DEPARTMENT MAY
23 CHARGE A REASONABLE FEE, TO BE DETERMINED BY THE COURT. The
24 cost of the investigation and report shall be paid according
25 to the final order.

1 ~~{2} The court may not order the department of social~~
2 ~~and rehabilitation services to conduct the investigation if~~
3 ~~another person or agency qualified to conduct the~~
4 ~~investigation is available. If the department conducts the~~
5 ~~investigation, the department may charge a reasonable fee to~~
6 ~~be paid according to the final order of the court.~~
7 ~~{2}{3}(2)~~ In preparing his report concerning a child,
8 the investigator may consult any person who may have
9 information about the child and his potential custodial
10 arrangements. Upon order of the court, the investigator may
11 refer the child to professional personnel for diagnosis. The
12 investigator may consult with and obtain information from
13 medical, psychiatric, or other expert persons who have
14 served the child in the past without obtaining the consent
15 of the parent or the child's custodian; but the child's
16 consent must be obtained if he has reached the age of 16
17 unless the court finds that he lacks mental capacity to
18 consent. If the requirements of subsection ~~{3}~~ ~~{4}~~ (3) are
19 fulfilled, the investigator's report may be received in
20 evidence at the hearing.
21 ~~{3}{4}(3)~~ The court shall mail the investigator's
22 report to counsel and to any party not represented by
23 counsel at least 10 days prior to the hearing. The
24 investigator shall make available to counsel and to any
25 party not represented by counsel the investigator's file of



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2 reports made to the investigator pursuant to the provisions
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13 NEW SECTION. Section 3. Effective date. This act is
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BY REQUEST OF THE DEPARTMENT OF SOCIAL

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A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE RESPONSIBILITY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO CONDUCT CUSTODY INVESTIGATIONS AND TO ALLOW THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO CHARGE A FEE FOR CUSTODY INVESTIGATIONS; AMENDING SECTION 40-4-215, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

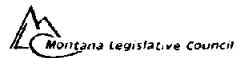
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~~(2) The court may not order the department of social and rehabilitation services to conduct the investigation if another person or agency qualified to conduct the investigation is available. If the department conducts the investigation, the department may charge a reasonable fee to be paid according to the final order of the court.~~

(2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and his potential custodial arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of 16 unless the court finds that he lacks mental capacity to consent. If the requirements of subsection (3) are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of



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-End-

CONFERENCE COMMITTEE REPORT

April 10, 1987

MR. PRESIDENT

We, your FREE Conference Committee on

Senate Bill 256

met and considered Senate Bill 256

Reference copy (salmon)

We recommend as follows:

THAT SENATE BILL 256 BE AMENDED AS FOLLOWS:

1. Page 1, line 23.

Following: " COURT. "

Insert: "The department shall waive the fee for conducting the investigation if the parent or the child's custodian requesting the investigation is a recipient of aid to families with dependent children, food stamps or general relief benefits."

And that this Conference Committee report be adopted.

FOR THE SENATE

Dick P. ...
Pansoneault

Mark Halligan
Halligan

Bob Brown
Brown

FOR THE HOUSE

MERCER
Mercer

Grady
Grady

Russell
Russell

ADOPT REJECT

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

3-6-87
DATE

15:00
TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 256

3rd reading copy (blue) as follows:
Color

1) Page 1, line 23.

Following: " FEE "

Strike: ", TO BE DETERMINED BY THE COURT"

ADOPT

REJECT

361500T.CW

Angela Russell
Rep. Russell

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21 COURT ORDERS THE DEPARTMENT OF SOCIAL AND REHABILITATION
22 SERVICES TO CONDUCT THE INVESTIGATION, THE DEPARTMENT MAY
23 CHARGE A REASONABLE FEE, TO BE DETERMINED BY THE COURT. THE
24 DEPARTMENT SHALL WAIVE THE FEE FOR CONDUCTING THE
25 INVESTIGATION IF THE PARENT OR THE CHILD'S CUSTODIAN

1 REQUESTING THE INVESTIGATION IS A RECIPIENT OF AID TO
2 FAMILIES WITH DEPENDENT CHILDREN, FOOD STAMPS, OR GENERAL
3 RELIEF BENEFITS. The cost of the investigation and report
4 shall be paid according to the final order.

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6 ~~and rehabilitation services to conduct the investigation if~~
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9 ~~investigation, the department may charge a reasonable fee to~~
10 ~~be paid according to the final order of the court.~~

11 (2)(3)(2) In preparing his report concerning a child,
12 the investigator may consult any person who may have
13 information about the child and his potential custodial
14 arrangements. Upon order of the court, the investigator may
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