

HOUSE BILL NO. 242

INTRODUCED BY COBB

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 18, 1989	FIRST READING.
JANUARY 26, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 27, 1989	PRINTING REPORT.
JANUARY 28, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
JANUARY 30, 1989	SECOND READING, DO PASS.
JANUARY 31, 1989	ENGROSSING REPORT.
FEBRUARY 1, 1989	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 8, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 10, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 11, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 242
 2 INTRODUCED BY Cobb
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
 4 AND REHABILITATION SERVICES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE LAWS RELATING TO PUBLIC ASSISTANCE; TO EXTEND
 8 THE PERIOD OF TIME IN WHICH TRANSFER OF PROPERTY MAY RESULT
 9 IN DISQUALIFICATION FOR PUBLIC ASSISTANCE; TO ELIMINATE THE
 10 REQUIREMENT THAT COUNTY WELFARE DEPARTMENTS PROVIDE NOTICE
 11 TO LAW ENFORCEMENT OFFICIALS CONCERNING THE PROVISION OF
 12 AFDC TO A CHILD WHO HAS BEEN DESERTED OR ABANDONED BY A
 13 PARENT; TO CLARIFY REQUIREMENTS FOR COUNTY REIMBURSEMENTS TO
 14 THE STATE FOR AFDC PROVIDED TO HOUSEHOLDS THAT INCLUDE AN
 15 ENROLLED INDIAN; AMENDING SECTIONS 53-2-101, 53-2-601,
 16 53-2-610, 53-4-201, 53-4-233, 53-4-241, AND 53-4-242, MCA;
 17 REPEALING SECTION 53-4-223, MCA; AND PROVIDING EFFECTIVE
 18 DATES."
 19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 21 **Section 1.** Section 53-2-101, MCA, is amended to read:
 22 "53-2-101. Definitions. Unless the context requires
 23 otherwise, in this chapter the following definitions apply:
 24 (1) "Department" means the department of social and
 25 rehabilitation services provided for in Title 2, chapter 15,

1 part 22.
 2 (2) "Protective services" means services to children
 3 and adults to be provided by the department of family
 4 services as permitted by Titles 41 and 53.
 5 (3) "Public assistance" or "assistance" means any type
 6 of monetary or other assistance furnished under this title
 7 to a person by a state or county agency, regardless of the
 8 original source of the assistance.
 9 (4) "Needy person" is one who is eligible for public
 10 assistance under the laws of this state.
 11 (5) ~~"Net monthly income" means one-twelfth of the~~
 12 ~~difference between the net income for the taxable year as~~
 13 ~~the term net income is defined in 15-30-101 and the state~~
 14 ~~income tax paid as determined by the state income tax return~~
 15 ~~filed during the current year.~~
 16 (6) ~~"Ward Indian" is hereby defined as an Indian who~~
 17 ~~is living on an Indian reservation set aside for tribal use~~
 18 ~~or is a member of a tribe or nation accorded certain rights~~
 19 ~~and privileges by treaty or by federal statutes, if and when~~
 20 ~~the federal Social Security Act is amended to define a "ward~~
 21 ~~Indian", such definition shall supersede the foregoing~~
 22 ~~definition."~~
 23 **Section 2.** Section 53-2-601, MCA, is amended to read:
 24 "53-2-601. Disqualification from public assistance
 25 when property transferred without adequate consideration for

1 purpose of qualifying for public assistance. The department
 2 may deny public assistance to any person who has divested
 3 himself directly or indirectly of any property for the
 4 purpose of qualifying for public assistance. The department
 5 shall make rules that raise a rebuttable presumption that
 6 any transfer of property ~~for less than fair market value~~
 7 within 2 3 years of the date of application for public
 8 assistance general relief was for the purpose of qualifying
 9 for public such assistance. The department may also make
 10 rules consistent with federal law raising a similar
 11 rebuttable presumption for purposes of state-administered
 12 federal public assistance programs authorized under Title
 13 53."

14 **Section 3.** Section 53-2-610, MCA, is amended to read:

15 "53-2-610. County to reimburse department. (1) On or
 16 before the 20th of each month, the department of social and
 17 rehabilitation services shall present a claim for
 18 reimbursement to each county department for its
 19 proportionate share of public assistance granted in the
 20 county to recipients during the month and for vendor medical
 21 payments made on behalf of recipients in the previous month.
 22 The county department shall make the reimbursement to the
 23 department of social and rehabilitation services within 20
 24 days after the claim is presented.

25 (2) The counties ~~shall~~ may not be required to

1 reimburse the department of social and rehabilitation
 2 services for:

3 (a) any portion of ~~old-age public assistance, medical~~
 4 ~~assistance, aid to needy dependent children, aid to needy~~
 5 ~~blind, or aid to the totally disabled~~ paid to ~~ward Indians a~~
 6 household eligible for aid to families with dependent
 7 children if the household includes an enrolled Indian who is
 8 the caretaker relative of a needy dependent child; or

9 (b) for any payment on behalf of any person in a
 10 state-operated medical institution.

11 (3) The federal government may reimburse the state of
 12 Montana ~~in~~ on behalf of counties providing general relief to
 13 ~~ward enrolled~~ Indians a sum in lieu of taxes which the
 14 counties would collect if the lands of such ~~ward~~ Indians
 15 were not in trust status.

16 ~~(3)(4)~~ (a) From the original date of entrustment or
 17 the original date of state residency, whichever is earlier,
 18 recipients of public assistance who become wards or patients
 19 in a licensed nursing home or hospital, foster home, or
 20 private charitable institution shall be the financial
 21 responsibility of the appropriate county as provided in
 22 subsections ~~(3)(b), (3)(c), and (3)(d)~~ of this section
 23 (4)(b) through (4)(d).

24 (b) The county in which commitment of an adult is
 25 initiated is considered the county of financial

1 responsibility except where court decree declares the
 2 residency to be otherwise. When an adult is transferred from
 3 a facility or institution to one of the above-enumerated
 4 facilities, the county which initiated the original
 5 commitment is considered the county of financial
 6 responsibility except in the case of an adult transfer from
 7 an out-of-state institution, in which case the county in
 8 which the facility is located is considered the county of
 9 financial responsibility.

10 (c) In all cases where a minor patient or ward is
 11 involved, the county of financial responsibility is the
 12 county in which the parent or guardian resides. If the
 13 custody of a minor is entrusted to a state agency, the
 14 agency may make a reasonable declaration of the county
 15 residency of its ward using applicable guidelines enumerated
 16 in this section.

17 (d) If a person is or becomes an adult while in an
 18 institution, he may determine his own county of residence
 19 when he is restored to competency and released. ~~Such--a~~ The
 20 person becomes the financial responsibility of the new
 21 county of residence."

22 **Section 4.** Section 53-4-201, MCA, is amended to read:

23 **"53-4-201. Definitions.** (1) (a) The term "dependent
 24 child", for public assistance purposes, means:

25 (i) a child under the age of 18; or

1 (ii) a person under the age of 19 who is a student
 2 under the regulations prescribed by the department.

3 (b) The child ((a)(i) or (a)(ii) above) must be
 4 deprived of parental support or care by reason of the death,
 5 continued absence from the home, continued unemployment, or
 6 physical or mental incapacity of a parent and be living with
 7 ~~his---father,---mother,---grandfather,---grandmother,---brother,~~
 8 ~~sister,---stepfather,---stepmother,---stepbrother,---stepsister,~~
 9 ~~uncle,---aunt,---nephew,---niece,---or-first-cousin-in-a-place-of~~
 10 ~~residence-maintained-by-one-or-more-of-such-relatives-as-his~~
 11 ~~or-their-own-home~~ a relative, as defined in rules adopted by
 12 the department.

13 (2) The term "aid to families with dependent children"
 14 means money payments ~~with-respect-to-or---payments~~ made for
 15 ~~medical---care-in~~ on behalf of a dependent child or dependent
 16 children pursuant to Title IV of the federal Social Security
 17 Act (42 U.S.C. 601, et seq.), including money payments or
 18 ~~payments---made---for---medical---care-for-any-month~~ to meet the
 19 needs of a relative with whom ~~a~~ the dependent child is
 20 living ~~if-money-payments-have-been-made-with-respect-to-such~~
 21 ~~child---for---such-month.~~ The term ~~shall~~ also include includes
 22 emergency assistance to families with children as provided
 23 by the federal Social Security Act.

24 (3) "Department" means the department of social and
 25 rehabilitation services provided for in Title 2, chapter 15,

1 part 22.

2 (4) "Public assistance" or "assistance" means any type
3 of monetary or other assistance furnished under this title
4 to a person by a state or county agency, regardless of the
5 original source of the assistance."

6 **Section 5.** Section 53-4-233, MCA, is amended to read:

7 "53-4-233. Investigation of applications. Whenever a
8 county department receives ~~a notification of the dependency~~
9 ~~of a child or~~ an application for assistance under this part,
10 an investigation shall be promptly made. The investigation
11 of each application for aid to families with dependent
12 children shall be conducted by ~~the county board through a~~
13 ~~staff worker of~~ the county department of public welfare.
14 Each applicant shall be informed of his right to a fair
15 hearing and of the confidential nature of information
16 secured with regard to his circumstances. Upon completion of
17 such an investigation, ~~the county welfare board shall~~
18 ~~determine whether the child is eligible for and should~~
19 ~~receive a grant; the amount of assistance; and the date on~~
20 ~~which assistance shall begin.~~ Aid aid shall be furnished
21 promptly to all eligible persons. Each applicant shall
22 receive written notice of the decision concerning his
23 application."

24 **Section 6.** Section 53-4-241, MCA, is amended to read:

25 "53-4-241. Amount of assistance determined by county

1 board department rules. The amount of aid to families with
2 dependent children granted in any case shall be determined
3 ~~by the county board of public welfare~~ according to the rules
4 and standards of assistance established by the department,
5 as required by the federal Social Security Act."

6 **Section 7.** Section 53-4-242, MCA, is amended to read:

7 "53-4-242. Periodic reconsideration ~~and changes in~~
8 amount of assistance. All assistance grants made under this
9 part shall be reconsidered ~~by the county department~~ as
10 frequently as may be required by the rules of the department
11 of social and rehabilitation services. ~~After such further~~
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16 ~~or county department finds that the child's circumstances~~
17 ~~have altered sufficiently to warrant such action.~~"

18 NEW SECTION. **Section 8.** Repealer. Section 53-4-223,
19 MCA, is repealed.

20 NEW SECTION. **Section 9.** Extension of authority. Any
21 existing authority to make rules on the subject of the
22 provisions of [this act] is extended to the provisions of
23 [this act].

24 NEW SECTION. **Section 10.** Effective dates. (1)
25 [Section 9 and this section] are effective on passage and

LC 0433/01

1 approval.

2 (2) [Sections 1 through 8] are effective July 1, 1989.

-End-

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

1 House BILL NO. 242
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4 AND REHABILITATION SERVICES
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8 THE PERIOD OF TIME IN WHICH TRANSFER OF PROPERTY MAY RESULT
9 IN DISQUALIFICATION FOR PUBLIC ASSISTANCE; TO ELIMINATE THE
10 REQUIREMENT THAT COUNTY WELFARE DEPARTMENTS PROVIDE NOTICE
11 TO LAW ENFORCEMENT OFFICIALS CONCERNING THE PROVISION OF
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3 and adults to be provided by the department of family
4 services as permitted by Titles 41 and 53.
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6 of monetary or other assistance furnished under this title
7 to a person by a state or county agency, regardless of the
8 original source of the assistance.
9 (4) "Needy person" is one who is eligible for public
10 assistance under the laws of this state.
11 (5)--"Net--monthly--income"--means--one-twelfth--of--the
12 difference-between-the-net-income-for-the--taxable--year--as
13 the--term--net--income-is-defined-in-15-30-101-and-the-state
14 income-tax-paid-as-determined-by-the-state-income-tax-return
15 filed-during-the-current-year.
16 (6)--"Ward-Indian"--is--hereby--defined--as--an--Indian--who
17 is--living-on-an-Indian-reservation-set-aside-for-tribal-use
18 or-is-a-member-of-a-tribe-or-nation--accorded-certain--rights
19 and-privileges-by-treaty-or-by-federal-statutes--if-and-when
20 the-federal-Social-Security-Act-is-amended-to-define-a-"ward
21 Indian";--such--definition--shall--supersede--the--foregoing
22 definition."
23 **Section 2.** Section 53-2-601, MCA, is amended to read:
24 "53-2-601. Disqualification from public assistance
25 when property transferred without-adequate-consideration for

purpose of qualifying for public assistance. The department may deny public assistance to any person who has divested himself directly or indirectly of any property for the purpose of qualifying for public assistance. The department shall make rules that raise a rebuttable presumption that any transfer of property ~~for less than fair market value~~ within 2 3 years of the date of application for public assistance general relief was for the purpose of qualifying for public such assistance. The department may also make rules consistent with federal law raising a similar rebuttable presumption for purposes of state-administered federal public assistance programs authorized under Title 53."

Section 3. Section 53-2-610, MCA, is amended to read:

"53-2-610. County to reimburse department. (1) On or before the 20th of each month, the department of social and rehabilitation services shall present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county to recipients during the month and for vendor medical payments made on behalf of recipients in the previous month. The county department shall make the reimbursement to the department of social and rehabilitation services within 20 days after the claim is presented.

(2) The counties shall may not be required to

reimburse the department of social and rehabilitation services for:

(a) any portion of ~~old-age public assistance, medical assistance, aid to needy dependent children, aid to needy blind, or aid to the totally disabled~~ paid to ward Indians a household eligible for aid to families with dependent children if the household includes an enrolled Indian who is the caretaker relative of a needy dependent child; or

(b) for any payment on behalf of any person in a state-operated medical institution.

(3) The federal government may reimburse the state of Montana in on behalf of counties providing general relief to ward enrolled Indians a sum in lieu of taxes which the counties would collect if the lands of such ward Indians were not in trust status.

~~(3)(4)~~ (a) From the original date of entrustment or the original date of state residency, whichever is earlier, recipients of public assistance who become wards or patients in a licensed nursing home or hospital, foster home, or private charitable institution shall be the financial responsibility of the appropriate county as provided in subsections ~~(3)(b), (3)(c), and (3)(d)~~ of this section (4)(b) through (4)(d).

(b) The county in which commitment of an adult is initiated is considered the county of financial

responsibility except where court decree declares the residency to be otherwise. When an adult is transferred from a facility or institution to one of the above-enumerated facilities, the county which initiated the original commitment is considered the county of financial responsibility except in the case of an adult transfer from an out-of-state institution, in which case the county in which the facility is located is considered the county of financial responsibility.

(c) In all cases where a minor patient or ward is involved, the county of financial responsibility is the county in which the parent or guardian resides. If the custody of a minor is entrusted to a state agency, the agency may make a reasonable declaration of the county residency of its ward using applicable guidelines enumerated in this section.

(d) If a person is or becomes an adult while in an institution, he may determine his own county of residence when he is restored to competency and released. ~~Such--a~~ The person becomes the financial responsibility of the new county of residence."

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(ii) a person under the age of 19 who is a student under the regulations prescribed by the department.

(b) The child ((a)(i) or (a)(ii) above) must be deprived of parental support or care by reason of the death, continued absence from the home, continued unemployment, or physical or mental incapacity of a parent and be living with his---father,---mother,---grandfather,---grandmother,---brother,---sister,---stepfather,---stepmother,---stepbrother,---stepsister,---uncle,---aunt,---nephew,---niece,---or---first-cousin-in-a-place-of residence-maintained-by-one-or-more-of-such-relatives-as-his or-their-own-home a relative, as defined in rules adopted by the department.

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3 of monetary or other assistance furnished under this title
4 to a person by a state or county agency, regardless of the
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6 **Section 5.** Section 53-4-233, MCA, is amended to read:

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9 ~~of a child or~~ an application for assistance under this part,
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11 of each application for aid to families with dependent
12 children shall be conducted by ~~the county board through a~~
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15 hearing and of the confidential nature of information
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16 ~~{3}{4}~~ (a) From the original date of entrustment or
 17 the original date of state residency, whichever is earlier,
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21 county of residence."

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23 "53-4-201. Definitions. (1) (a) The term "dependent
24 child", for public assistance purposes, means:

25 (i) a child under the age of 18; or

1 (ii) a person under the age of 19 who is a student
2 under the regulations prescribed by the department.

3 (b) The child ((a)(i) or (a)(ii) above) must be
4 deprived of parental support or care by reason of the death,
5 continued absence from the home, continued unemployment, or
6 physical or mental incapacity of a parent and be living with
7 his---father,---mother,---grandfather,---grandmother,---brother,
8 sister,---stepfather,---stepmother,---stepbrother,---stepsister,
9 uncle,---aunt,---nephew,---niece, or first-cousin-in-a-place-of
10 residence-maintained-by-one-or-more-of-such-relatives-as-his
11 or-their-own-home a relative, as defined in rules adopted by
12 the department.

13 (2) The term "aid to families with dependent children"
14 means money payments ~~with-respect-to-or--payments~~ made for
15 ~~medical--care-in~~ on behalf of a dependent child ~~or-dependent~~
16 ~~children~~ pursuant to Title IV of the federal Social Security
17 Act (42 U.S.C. 601, et seq.), including money payments or
18 ~~payments--made--for--medical--care-for-any-month~~ to meet the
19 needs of a relative with whom a ~~the~~ dependent child is
20 living ~~if-money-payments-have-been-made-with-respect-to-such~~
21 ~~child--for--such-month.~~ The term ~~shall~~ also ~~include~~ includes
22 emergency assistance to families with children as provided
23 by the federal Social Security Act.

24 (3) "Department" means the department of social and
25 rehabilitation services provided for in Title 2, chapter 15,

1 part 22.

2 (4) "Public assistance" or "assistance" means any type
3 of monetary or other assistance furnished under this title
4 to a person by a state or county agency, regardless of the
5 original source of the assistance."

6 **Section 5.** Section 53-4-233, MCA, is amended to read:

7 "53-4-233. Investigation of applications. Whenever a
8 county department receives ~~a notification of the dependency~~
9 ~~of a child or~~ an application for assistance under this part,
10 an investigation shall be promptly made. The investigation
11 of each application for aid to families with dependent
12 children shall be conducted by ~~the county board through a~~
13 ~~staff worker of~~ the county department of public welfare.
14 Each applicant shall be informed of his right to a fair
15 hearing and of the confidential nature of information
16 secured with regard to his circumstances. Upon completion of
17 such an investigation, ~~the county welfare board shall~~
18 ~~determine whether the child is eligible for and should~~
19 ~~receive a grant, the amount of assistance, and the date on~~
20 ~~which assistance shall begin.~~ Aid aid shall be furnished
21 promptly to all eligible persons. Each applicant shall
22 receive written notice of the decision concerning his
23 application."

24 **Section 6.** Section 53-4-241, MCA, is amended to read:

25 "53-4-241. Amount of assistance determined by county

1 board department rules. The amount of aid to families with
2 dependent children granted in any case shall be determined
3 ~~by the county board of public welfare~~ according to the rules
4 and standards of assistance established by the department,
5 as required by the federal Social Security Act."

6 **Section 7.** Section 53-4-242, MCA, is amended to read:

7 "53-4-242. Periodic reconsideration ~~and changes in~~
8 amount of assistance. All assistance grants made under this
9 part shall be reconsidered ~~by the county department~~ as
10 frequently as may be required by the rules of the department
11 of social and rehabilitation services. ~~After such further~~
12 ~~investigation as the county department may consider~~
13 ~~necessary or the department of social and rehabilitation~~
14 ~~services may require, the amount of assistance may be~~
15 ~~changed or assistance may be entirely withdrawn if the state~~
16 ~~or county department finds that the child's circumstances~~
17 ~~have altered sufficiently to warrant such action."~~

18 NEW SECTION. **Section 8.** Repealer. Section 53-4-223,
19 MCA, is repealed.

20 NEW SECTION. **Section 9.** Extension of authority. Any
21 existing authority to make rules on the subject of the
22 provisions of [this act] is extended to the provisions of
23 [this act].

24 NEW SECTION. **Section 10.** Effective dates. (1)
25 [Section 9 and this section] are effective on passage and

LC Q433/Q1

1 approval.

2 (2) [Sections 1 through 8] are effective July 1, 1989.

-End-

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

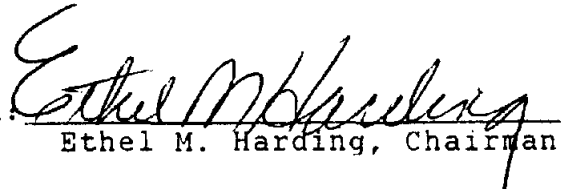
We, your committee on Local Government, having had under consideration HB 242 (third reading copy -- blue), respectfully report that HB 242 be amended and as so amended be concurred in:

Sponsor: Cobb (Pinsonneault)

1. Page 3, line 7.
Strike: "3 years"
Insert: "30 months"

AND AS AMENDED BE CONCURRED IN

Signed:


Ethel M. Harding, Chairman

SENATE

SCRHB242.301

HOUSE BILL NO. 242

INTRODUCED BY COBB

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC ASSISTANCE; TO EXTEND THE PERIOD OF TIME IN WHICH TRANSFER OF PROPERTY MAY RESULT IN DISQUALIFICATION FOR PUBLIC ASSISTANCE; TO ELIMINATE THE REQUIREMENT THAT COUNTY WELFARE DEPARTMENTS PROVIDE NOTICE TO LAW ENFORCEMENT OFFICIALS CONCERNING THE PROVISION OF AFDC TO A CHILD WHO HAS BEEN DESERTED OR ABANDONED BY A PARENT; TO CLARIFY REQUIREMENTS FOR COUNTY REIMBURSEMENTS TO THE STATE FOR AFDC PROVIDED TO HOUSEHOLDS THAT INCLUDE AN ENROLLED INDIAN; AMENDING SECTIONS 53-2-101, 53-2-601, 53-2-610, 53-4-201, 53-4-233, 53-4-241, AND 53-4-242, MCA; REPEALING SECTION 53-4-223, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 53-2-101, MCA, is amended to read:

"53-2-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15,

part 22.

(2) "Protective services" means services to children and adults to be provided by the department of family services as permitted by Titles 41 and 53.

(3) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

(4) "Needy person" is one who is eligible for public assistance under the laws of this state.

(5) --"Net--monthly--income"--means--one-twelfth--of-the difference-between-the-net-income-for-the--taxable--year--as the--term--net--income-is-defined-in-15-30-101-and-the-state income-tax-paid-as-determined-by-the-state-income-tax-return filed-during-the-current-year--

(6) --"Ward-Indian"--is-hereby-defined-as-an--Indian--who is--living-on-an-Indian-reservation-set-aside-for-tribal-use or-is-a-member-of-a-tribe-or-nation--accorded-certain--rights and-privileges-by-treaty-or-by-federal-statutes--If-and-when the-federal-Social-Security-Act-is-amended-to-define-a--"ward Indian"--such--definition--shall--supersede--the--foregoing definition--"

Section 2. Section 53-2-601, MCA, is amended to read:

"53-2-601. Disqualification from public assistance when property transferred without-adequate-consideration for

1 purpose of qualifying for public assistance. The department
 2 may deny public assistance to any person who has divested
 3 himself directly or indirectly of any property for the
 4 purpose of qualifying for public assistance. The department
 5 shall make rules that raise a rebuttable presumption that
 6 any transfer of property ~~for less than fair market value~~
 7 within 2 3 years 30 MONTHS of the date of application for
 8 ~~public-assistance general relief~~ was for the purpose of
 9 qualifying for ~~public~~ such assistance. The department may
 10 also make rules consistent with federal law raising a
 11 similar rebuttable presumption for purposes of
 12 state-administered federal public assistance programs
 13 authorized under Title 53."

14 **Section 3.** Section 53-2-610, MCA, is amended to read:

15 "53-2-610. County to reimburse department. (1) On or
 16 before the 20th of each month, the department of social and
 17 rehabilitation services shall present a claim for
 18 reimbursement to each county department for its
 19 proportionate share of public assistance granted in the
 20 county to recipients during the month and for vendor medical
 21 payments made on behalf of recipients in the previous month.
 22 The county department shall make the reimbursement to the
 23 department of social and rehabilitation services within 20
 24 days after the claim is presented.

25 (2) The counties ~~shall~~ may not be required to

1 reimburse the department of social and rehabilitation
 2 services for:

3 (a) any portion of ~~old-age public assistance, medical~~
 4 ~~assistance, aid to needy dependent children, aid to needy~~
 5 ~~blind, or aid to the totally disabled~~ paid to ~~ward Indians a~~
 6 household eligible for aid to families with dependent
 7 children if the household includes an enrolled Indian who is
 8 the caretaker relative of a needy dependent child; or

9 (b) for any payment on behalf of any person in a
 10 state-operated medical institution.

11 (3) The federal government may reimburse the state of
 12 Montana ~~in on~~ on behalf of counties providing general relief to
 13 ward enrolled Indians a sum in lieu of taxes which the
 14 counties would collect if the lands of such ward Indians
 15 were not in trust status.

16 ~~(3)(4)~~ (a) From the original date of entrustment or
 17 the original date of state residency, whichever is earlier,
 18 recipients of public assistance who become wards or patients
 19 in a licensed nursing home or hospital, foster home, or
 20 private charitable institution shall be the financial
 21 responsibility of the appropriate county as provided in
 22 subsections ~~(3)(b), (3)(c), and (3)(d)~~ (4)(b) through (4)(d).
 23

24 (b) The county in which commitment of an adult is
 25 initiated is considered the county of financial

1 responsibility except where court decree declares the
 2 residency to be otherwise. When an adult is transferred from
 3 a facility or institution to one of the above-enumerated
 4 facilities, the county which initiated the original
 5 commitment is considered the county of financial
 6 responsibility except in the case of an adult transfer from
 7 an out-of-state institution, in which case the county in
 8 which the facility is located is considered the county of
 9 financial responsibility.

10 (c) In all cases where a minor patient or ward is
 11 involved, the county of financial responsibility is the
 12 county in which the parent or guardian resides. If the
 13 custody of a minor is entrusted to a state agency, the
 14 agency may make a reasonable declaration of the county
 15 residency of its ward using applicable guidelines enumerated
 16 in this section.

17 (d) If a person is or becomes an adult while in an
 18 institution, he may determine his own county of residence
 19 when he is restored to competency and released. Such--a The
 20 person becomes the financial responsibility of the new
 21 county of residence."

22 **Section 4.** Section 53-4-201, MCA, is amended to read:

23 "53-4-201. Definitions. (1) (a) The term "dependent
 24 child", for public assistance purposes, means:

25 (i) a child under the age of 18; or

1 (ii) a person under the age of 19 who is a student
 2 under the regulations prescribed by the department.

3 (b) The child ((a)(i) or (a)(ii) above) must be
 4 deprived of parental support or care by reason of the death,
 5 continued absence from the home, continued unemployment, or
 6 physical or mental incapacity of a parent and be living with
 7 his---father,---mother,---grandfather,---grandmother,---brother,
 8 sister,---stepfather,---stepmother,---stepbrother,---stepsister,
 9 uncle,---aunt,---nephew,---niece,---or---first-cousin-in-a-place-of
 10 residence-maintained-by-one-or-more-of-such-relatives-as-his
 11 or-their-own-home a relative, as defined in rules adopted by
 12 the department.

13 (2) The term "aid to families with dependent children"
 14 means money payments with-respect-to-or---payments made for
 15 medical---care-in on behalf of a dependent child or-dependent
 16 children pursuant to Title IV of the federal Social Security
 17 Act (42 U.S.C. 601, et seq.), including money payments or
 18 payments---made---for---medical---care-for-any-month to meet the
 19 needs of a relative with whom a the dependent child is
 20 living if-money-payments-have-been-made-with-respect-to-such
 21 child---for---such-month. The term shall also include includes
 22 emergency assistance to families with children as provided
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 25 rehabilitation services provided for in Title 2, chapter 15,

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14 Each applicant shall be informed of his right to a fair
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23 [this act].

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25 [Section 9 and this section] are effective on passage and

HB 0242/02

1 approval.

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-End-