

SENATE BILL NO. 271

INTRODUCED BY JACOBSON, RUSSELL, FRANKLIN, KEATING,
YELLOWTAIL, WATERMAN, ECK, SCHYE, CHRISTIAENS, REAM,
BROOKE, HARRINGTON, WANZENRIED, WYATT, COBB, S. RICE,
MENAHAH, B. BROWN, D. BROWN, GAGE, BIRD, BURNETT,
CRIPPEN, BLAYLOCK, BARTLETT, LYNCH, DOHERTY

IN THE SENATE

JANUARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 20, 1993	ON MOTION, REREFERRED TO COMMITTEE ON FINANCE & CLAIMS.
MARCH 18, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 19, 1993	PRINTING REPORT.
	SECOND READING, DO PASS AS AMENDED.
MARCH 20, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 31; NOES, 14.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
	ON MOTION, REREFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
APRIL 14, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
	SECOND READING, CONCURRED IN.
	THIRD READING, CONCURRED IN. AYES, 94; NOES, 5.

APRIL 15, 1933

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 19, 1993

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 20, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 21, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 24, 1993

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1993

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Smith* BILL NO. *271*
 2 INTRODUCED BY *Jacobson Russell Franklin*
 3 *Hellmuth* *Wright* *Boh* *Seize* *Christiansen*
 4 *Dean* *Brake* *Sanington* *Wright* *Libb*
 5 A BILL FOR AN ACT ENTITLED, "AN ACT ESTABLISHING LOCAL
 6 CITIZEN REVIEW BOARDS FOR FOSTER CARE PLACEMENTS; AMENDING
 7 SECTIONS 41-3-206, 41-3-1122, AND 52-2-112, MCA; REPEALING
 8 SECTION 41-3-1115, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

10 NEW SECTION. **Section 1.** Short title. [Sections 1
 11 through 13] may be cited as the "Local Citizen Review Board
 12 Act".

13 NEW SECTION. **Section 2.** Establishment of local
 14 citizen review board -- membership. (1) Subject to the
 15 availability of funds, the supreme court shall establish a
 16 local citizen review board in each judicial district in the
 17 state to review the case of each child assigned to foster
 18 care by the youth court of each judicial district, as
 19 provided in Title 41, chapter 5.

20 (2) A local citizen review board is composed of at
 21 least three and not more than five members appointed by the
 22 chief justice of the supreme court. Each member appointed
 23 must be sworn in by a judge of the judicial district to
 24 which the member is appointed to serve.

25 (3) The chief justice of the supreme court shall

1 appoint local citizen review boards according to the
 2 following guidelines:

3 (a) Members of a local citizen review board must be
 4 recruited from groups with special knowledge of or interest
 5 in foster care and child welfare, which may include but is
 6 not limited to adoptive parents and members of the
 7 professions of law, medicine, psychology, social work, and
 8 education.

9 (b) As far as practicable, members of a local citizen
 10 review board shall represent the various socioeconomic and
 11 ethnic groups of the area served.

12 (c) A person employed by the department of family
 13 services, by a private agency regulated, certified,
 14 directed, or licensed by or contracting with the department
 15 of family services, or by a youth court may not serve on a
 16 local citizen review board.

17 (d) The appointment of a member of a local citizen
 18 review board may be made only from a list approved by the
 19 presiding judge of the youth court to which the member is
 20 appointed to serve.

21 (e) A member of a local citizen review board must be a
 22 resident of one of the counties of the judicial district
 23 that the member is appointed to serve.

24 NEW SECTION. **Section 3.** Administration -- training --
 25 procedures. (1) Subject to the availability of funds, the

1 office of the supreme court administrator, in accordance
2 with the direction of the supreme court, shall:

3 (a) establish and approve policies and procedures for
4 the operation of local citizen review boards;

5 (b) approve and provide training programs for local
6 citizen review board members;

7 (c) provide consultation services on request to local
8 citizen review boards; and

9 (d) employ staff and provide for support services for
10 the local citizen review boards.

11 (2) The office of the supreme court administrator shall
12 provide, in accordance with the direction of the supreme
13 court, a biennial report to the governor, the legislature,
14 and the public regarding:

15 (a) state laws, policies, and practices affecting
16 permanence and appropriate care for children in the custody
17 of the department of family services and other agencies; and

18 (b) the effectiveness of local citizen review boards in
19 bringing about permanence and appropriate care for children
20 in the custody of the department of family services and
21 other agencies.

22 (3) The supreme court shall adopt procedures for the
23 administration of the local citizen review board program
24 regarding:

25 (a) the removal of members of local citizen review

1 boards;

2 (b) the time, content, and manner in which case plans
3 for and case progress reports on a child assigned to foster
4 care must be provided to the local citizen review board by
5 the department of family services, other agencies, or
6 individuals directly responsible for the care of the child;

7 (c) the provision of written notice of the review to
8 the department of family services, any other agency directly
9 responsible for the care or placement of a child, the
10 parents or their attorneys, foster parents, surrogate
11 parents, mature children or their attorneys, a
12 court-appointed attorney or special advocate of any child,
13 any county attorney or attorney general actively involved in
14 the case, and other interested persons. The notice must
15 include a statement that persons receiving a notice may
16 participate in the hearing and be accompanied by a
17 representative.

18 (d) securing or excusing the presence at the review of
19 caseworkers and other employees of the department of family
20 services or other agencies directly responsible for the care
21 of the child; and

22 (e) the manner in which local citizen review boards may
23 remove cases from review when review is not required under
24 federal law.

25 NEW SECTION. **Section 4. Removal of members -- grounds.**

1 Grounds for removal of a member of a local citizen review
2 board under [section 3(3)] may include but are not limited
3 to the following:

4 (1) nonparticipation by a local citizen review board
5 member;

6 (2) a member establishing residence in a judicial
7 district other than the judicial district in which the court
8 the person was appointed to serve is located;

9 (3) violation of the confidentiality of information
10 established under [section 6]; or

11 (4) other cause or grounds as necessary for the
12 administration of the program.

13 **NEW SECTION. Section 5. Terms -- officers -- meetings.**

14 (1) A local citizen review board member shall serve at the
15 pleasure of the appointing authority. However, if not
16 otherwise released from service on a local citizen review
17 board, the following provisions apply:

18 (a) A member shall serve a term of 2 years, except that
19 if a vacancy occurs, a successor must be appointed to serve
20 the unexpired term.

21 (b) A member may be reappointed and continue to serve
22 until a successor is appointed.

23 (2) Each local citizen review board shall:

24 (a) elect annually from its membership a presiding
25 officer and vice presiding officer to serve in the absence

1 of the presiding officer; and

2 (b) meet at the nearest department of family services
3 office or another place mutually agreed to by a majority of
4 the local citizen review board as often as it considers
5 necessary to carry out the duties of the board.

6 **NEW SECTION. Section 6. Confidentiality of information**

7 -- penalty. (1) Before beginning to serve on a local citizen
8 review board, each member shall swear or affirm to the court
9 that the member will keep confidential the information
10 reviewed by the board and its actions and recommendations in
11 individual cases.

12 (2) A member of a local citizen review board who
13 violates the duty imposed by subsection (1) is guilty of a
14 misdemeanor punishable by a fine not to exceed \$1,000.

15 **NEW SECTION. Section 7. Access to records.** (1)

16 Notwithstanding the provisions of 41-3-205, a local citizen
17 review board has access to:

18 (a) any records of the youth court that are pertinent
19 to the case; and

20 (b) any records of the department of family services or
21 other agencies that would be admissible in a dispositional
22 review hearing conducted pursuant to 41-3-406, including
23 school records and reports of private service providers
24 contained in the records of the department of family
25 services or other agencies.

(2) All requested records not already before the local citizen review board must be submitted by the department of family services within 5 working days after receipt of a request. A local citizen review board and any staff provided for the board shall return all records and copies received from the department of family services to the department within 7 working days after completion of the review.

(3) A local citizen review board may retain a reference copy of case material used by the board to make its recommendation if:

(a) the material is necessary for the ongoing work of the local citizen review board with regard to the particular case or to work of the board; and

(b) the confidentiality of the material is continued and protected in the same manner as other material received from the department of family services. Material retained by the local citizen review boards is not subject to disclosure under the public records law.

(4) If a local citizen review board is denied access to requested records, it may request a hearing. The court may require the organization in possession of the records to show cause why the records should not be made available as provided by this section.

NEW SECTION. Section 8. Assignment of cases for review. Within 10 days of entry of the order of disposition

or within 30 days of placement, whichever comes first, the youth court shall assign the case of each child in foster care to a local citizen review board and forward to the board a copy of the petition and the order of disposition for each child who is within the jurisdiction of the youth court and who has been placed in foster care.

NEW SECTION. Section 9. Review -- scope -- procedures -- immunity. (1) Except for cases removed from review under procedures established under [section 3], the local citizen review board shall review the case of each child in foster care that is assigned by the youth court.

(2) The review must take place at times set by the local citizen review board. The first review may not be more than 6 months after the child is placed in foster care. Subsequent reviews must take place at least once every 6 months until the child is no longer within the jurisdiction of the youth court or no longer in foster care.

(3) The youth court, by rule of the court or on an individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(4) The local citizen review board shall review any case in which a petition to terminate parental rights has been denied as soon as practical but no later than 45 days

1 after the denial.

2 (5) After reviewing each case, the local citizen review
3 board shall prepare written findings and recommendations
4 with respect to:

5 (a) whether reasonable efforts were made prior to the
6 placement to prevent or to eliminate the need for removal of
7 the child from the home and to make it possible for the
8 child to be returned home;

9 (b) the continuing need for and appropriateness of the
10 placement;

11 (c) compliance with the case plan;

12 (d) the progress that has been made toward alleviating
13 the need for placement;

14 (e) a likely date by which the child may be returned
15 home or placed for adoption;

16 (f) other problems, solutions, or alternatives that the
17 local citizen review board determines should be explored;
18 and

19 (g) whether the youth court should appoint an attorney
20 or other person as special advocate to represent or appear
21 on behalf of the child pursuant to 41-3-303.

22 (6) Whenever a member of a local citizen review board
23 has a potential conflict of interest in a case being
24 reviewed, the member shall declare to the board the nature
25 of the potential conflict prior to participating in the case

1 review. The following provisions apply:

2 (a) The declaration of the member must be recorded in
3 the official records of the local citizen review board.

4 (b) If, in the judgment of the majority of the local
5 citizen review board, the potential conflict of interest may
6 prevent the member from fairly and objectively reviewing the
7 case, the board may remove the member from participation in
8 the review.

9 (7) The local citizen review board shall keep accurate
10 records and retain the records on file. The local citizen
11 review board shall send copies of its written findings and
12 recommendations to the youth court, the department of family
13 services, and other participants in the review.

14 (8) The local citizen review board may hold joint or
15 separate reviews for groups of siblings.

16 (9) The local citizen review board may disclose to
17 parents and their attorneys, foster parents, mature children
18 and their attorneys, and other persons authorized by the
19 board to participate in the case review the records
20 disclosed to the board pursuant to [section 7]. Before
21 participating in a local citizen review board case review,
22 each participant, other than parents and children, shall
23 swear or affirm to the board that the participant will keep
24 confidential the information disclosed by the board in the
25 case review and will disclose it only as authorized by law.

1 NEW SECTION. Section 10. Recommendations by board. In
 2 addition to reviewing individual cases of children in foster
 3 care, local citizen review boards may make recommendations
 4 to the youth court and to the department of family services
 5 concerning foster care services, policies, procedures, and
 6 laws.

7 NEW SECTION. Section 11. Presence of certain employees
 8 at meetings of board. (1) Unless excused from doing so by
 9 the local citizen review board, the department of family
 10 services and any other agency directly responsible for the
 11 care and placement of the child shall require the presence
 12 of any employees having knowledge of the case at board
 13 meetings.

14 (2) The local citizen review board may require the
 15 presence of specific employees of the department of family
 16 services or any other agency at board meetings. If an
 17 employee fails to be present at the meeting, the local
 18 citizen review board may request a court order. The court
 19 may require the employee to be present and show cause why
 20 the employee should not be compelled to appear before the
 21 local citizen review board.

22 (3) As used in this section, "presence" includes
 23 telephone participation, except that the caseworker on the
 24 case at the time of the meeting must be physically present
 25 if required.

1 NEW SECTION. Section 12. Court review of findings and
 2 recommendations of board. (1) Upon receipt of findings and
 3 recommendations from the local citizen review board, the
 4 youth court shall:

5 (a) review the findings and recommendations of the
 6 local citizen review board within 10 days. If the youth
 7 court finds it appropriate, the youth court may on its own
 8 motion schedule a review hearing.

9 (b) cause the findings and recommendations of the local
 10 citizen review board to become part of the youth court file;
 11 and

12 (c) give the local citizen review board written notice
 13 if the youth court modifies, alters, or takes action on a
 14 case as a result of the board's recommendations.

15 (2) Upon receipt of findings and recommendations from
 16 the local citizen review board, the department of family
 17 services shall:

18 (a) review the findings and recommendations of the
 19 local citizen review board within 10 days. The
 20 recommendations must be implemented and the case plan
 21 modified as the department of family services considers
 22 appropriate and as resources permit.

23 (b) give the local citizen review board written notice
 24 as soon as practicable, but in no case later than 7 days
 25 after the review is completed, if the department of family

1 services does not intend to implement the recommendations;
2 and

3 (c) include the findings and recommendations of the
4 local citizen review board as part of the case file of the
5 department of family services.

6 (3) Upon its own motion or upon the request of the
7 department of family services, the local citizen review
8 board, or any interested party, the youth court may appoint
9 an attorney or other person as special advocate to represent
10 or appear on behalf of the child. Subject to the direction
11 of the youth court, the court-appointed special advocate
12 shall:

13 (a) investigate all relevant information about the
14 case;

15 (b) advocate for the child, ensuring that all relevant
16 facts are brought before the court;

17 (c) facilitate and negotiate to ensure that the youth
18 court, the department of family services, and the child's
19 attorney fulfill their obligations to the child in a timely
20 fashion; and

21 (d) monitor all youth court orders to ensure compliance
22 and to bring to the youth court's attention any change in
23 circumstance that may require modification of the youth
24 court's order.

25 NEW SECTION. **Section 13. Dispositional review hearing**

1 by youth court. (1) The youth court shall conduct a
2 dispositional review hearing within 18 months after the
3 original placement and conduct a review hearing periodically
4 during the continuation of foster care. Unless good cause
5 otherwise is shown, the youth court shall conduct a
6 dispositional review hearing at any time upon the request of
7 the department of family services, an agency directly
8 responsible for care or placement of the child, a parent
9 whose parental rights have not been terminated, an attorney
10 for the child, a court-appointed special advocate, or a
11 local citizen review board. The youth court shall schedule
12 the hearing as soon as possible after receiving a request.

13 (2) The court may order that the child or any other
14 person be present during the hearing.

15 (3) The court shall notify the parties listed in
16 subsection (1) and any other interested parties of the
17 hearing. The notice must state the time and place of the
18 hearing. Upon request of the youth court, the department of
19 family services or other legal custodian of the child shall
20 provide the youth court with information concerning the
21 whereabouts and identity of the parties.

22 (4) The youth court shall enter an order within 20 days
23 after the review hearing. If the child is in foster care,
24 the order must include a determination of:

25 (a) whether the child should be returned to the parent;

(b) whether the child should be placed for adoption;

(c) whether the child should continue in foster care for a specified period; or

(d) whether, because of special needs or circumstances, the child should be placed in the permanent custody or guardianship of a responsible relative or other individual or should continue in foster care on a permanent or long-term basis.

(5) If the court determines that the child must be placed or must continue in foster care or must be placed in the custody or guardianship of a responsible relative or other individual, the youth court shall enter written findings specifying why placement with parents or adoption is not appropriate. If the current placement is not expected to be permanent, the youth court shall specify a projected timetable for return of the child to the child's home or for permanent placement. If the timetable set forth by the youth court is not met, the department of family services shall promptly notify the youth court and the parties.

(6) In the course of the dispositional review hearing, the youth court may determine the adequacy of and compliance with the case plan and case progress report. In addition to other orders, the youth court may:

(a) order the department of family services to develop or to expand a case plan or case progress report that must

be submitted within 10 days after the hearing;

(b) set a court hearing at a specific later time;

(c) direct the local citizen review board to review the status of the child prior to its next review, as provided in [section 9];

(d) order the department of family services or other agency directly responsible for the child to modify the care, placement, or supervision of the child; and

(e) determine whether the department of family services or other agency directly responsible for the child has made reasonable efforts to reunify the family.

(7) The dispositional review hearing must be conducted in the manner provided in 41-3-406.

(8) Any decision of the youth court made pursuant to the dispositional review hearing is a final order for the purposes of 41-3-406.

Section 14. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions.

(1) The case records of the department of social and rehabilitation services, the department of family services and its local affiliate, the county welfare department, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect ~~shall~~ must be kept confidential except as provided by this section. Any person who permits

1 or encourages the unauthorized dissemination of their
2 contents is guilty of a misdemeanor.

3 (2) Records may be disclosed to a court for in camera
4 inspection if relevant to an issue before it. The court may
5 permit public disclosure if it finds such disclosure to be
6 necessary for the fair resolution of an issue before it.

7 (3) Records may also be disclosed to the following
8 persons or entities in this state or any other state:

9 (a) a department, agency, or organization, including
10 federal agencies, legally authorized to receive, inspect, or
11 investigate reports of child abuse or neglect;

12 (b) a licensed youth care facility or a licensed
13 child-placing agency that is providing services to the
14 family or child who is the subject of a report in the
15 records;

16 (c) a licensed health or mental health professional who
17 is treating the family or child who is the subject of a
18 report in the records;

19 (d) a parent or guardian of the child who is the
20 subject of a report in the records or other person
21 responsible for the child's welfare, without disclosure of
22 the identity of any person who reported or provided
23 information on the alleged child abuse or neglect incident
24 contained in the records;

25 (e) a child named in the records who was allegedly

1 abused or neglected or ~~his~~ the child's guardian ad litem;

2 (f) the members of an interdisciplinary child
3 protective team authorized under 41-3-108 for the purposes
4 of assessing the needs of the child and family, formulating
5 a treatment plan, and monitoring the plan;

6 (g) a department or agency investigating an applicant
7 for a license to operate a youth care facility, day-care
8 facility, or child-placing agency if the investigation is
9 based on a substantiated report and the applicant is
10 notified of the investigation;

11 (h) an employee of the department if disclosure of the
12 records is necessary for administration of programs designed
13 to benefit the child;

14 (i) an agency of an Indian tribe or the relatives of an
15 Indian child if disclosure of the records is necessary to
16 meet requirements of the federal Indian Child Welfare Act;

17 (j) a youth probation officer who is working in an
18 official capacity with the child who is the subject of a
19 report in the records;

20 (k) a county attorney or peace officer if disclosure is
21 necessary for the investigation or prosecution of a case
22 involving child abuse or neglect;

23 (l) ~~a--foster--care--review-committee-established-under~~
24 ~~41-3-1115~~ a local citizen review board established under
25 [sections 1 through 13];

1 (m) a school employee participating in an interview of
2 a child by a social worker, county attorney, or peace
3 officer as provided in 41-3-202;

4 (n) a member of a county interdisciplinary child
5 information team formed under 52-2-211 who is not listed in
6 subsection (3); or

7 (o) members of a local interagency staffing group
8 provided for in 52-2-203.

9 (4) A person who is authorized to receive records under
10 this section shall maintain the confidentiality of the
11 records and may not disclose information in the records to
12 anyone other than the persons described in subsection
13 (3)(a).

14 (5) Nothing in this section is intended to affect the
15 confidentiality of criminal court records or records of law
16 enforcement agencies."

17 **Section 15.** Section 41-3-1122, MCA, is amended to read:

18 "41-3-1122. Payment for support of youth in need of
19 care, youth in need of supervision, or delinquent youth --
20 reimbursement by county. (1) Whenever a youth who is a youth
21 in need of care, a youth in need of supervision, or a
22 delinquent youth is placed by the department of family
23 services in a youth care facility, the department shall pay,
24 within the limits of the appropriation for that purpose, a
25 foster care payment to the youth care facility at a rate

1 established by the department for board, clothing, personal
2 needs, treatment, and room of the youth.

3 (2) On or before the 20th of each month the department
4 shall present a claim to the county of residence of the
5 youth for no more than one-half of the nonfederal share of
6 the payments so made during the month. The county must make
7 reimbursement to the department within 20 days after the
8 claim is presented.

9 (3) Except as provided in subsection (4), when a
10 county's level of expenditure for any year reaches the level
11 of reimbursement for foster care in fiscal year 1987, the
12 county has no further obligation for foster care
13 expenditures.

14 (4) If a county's level of expenditure for foster care
15 in fiscal year 1987 is \$10,000 or less, the county's level
16 of expenditure for purposes of determining the county's
17 reimbursement specified in subsection (3) is the level of
18 expenditures for fiscal year 1987 or the average of
19 expenditures for fiscal years 1984 through 1987, whichever
20 is less.

21 (5) The department shall conduct or arrange for the
22 review required under ~~41-3-1115~~ [section 9] of a youth
23 placed in a youth care facility if the youth is placed by
24 the department."

25 **Section 16.** Section 52-2-112, MCA, is amended to read:

1 "52-2-112. Duty to strengthen child welfare services.
2 The department shall make provision for establishing and
3 strengthening child welfare services, including protective
4 services, and for care of children in licensed family foster
5 homes, child care agencies, group homes, or treatment
6 facilities. Payment provided under this section is made
7 under the provisions of 41-3-1122 and ~~41-3-1115~~."

8 NEW SECTION. **Section 17.** Repealer. Section 41-3-1115,
9 MCA, is repealed.

10 NEW SECTION. **Section 18.** Effective date. [This act] is
11 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0271, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: A bill establishing a local citizen review board for foster care placements.

ASSUMPTIONS:Department of Family Services

1. This bill would not generate any new revenue.
2. This bill would restrict department personal from being on the council. The department personnel would not be able to provide immediate knowledge of the child's case; therefore, copies of all cases would have to be produced for the council.
3. The number of child cases would remain constant at the FY92 level of 3,493.
4. Additional staff for each region would be needed to copy files, monitor and file returned documents, and provide additional information as needed. (This will be seven additional half time FTE at grade 8. They will work in conjunction with the court staff in each of the seven regions. The regions are headquartered in Helena, Billings, Great Falls, Missoula, Kalispell, Butte and Bozeman.)
5. Additional funding for staff travel to testify at council meetings will be needed; however, this could not be estimated.

Judiciary

6. Oregon has a similar board. The total cases reviewed in Oregon are 5,000 at an annual cost of \$1,800,000, with 17.50 FTE.
7. Montana has about 3,500 cases (70% of Oregon's caseload) and the expenditures will be consistent with Oregon.
8. There will be additional staff in Helena and each of the regions. They are: 1.0 FTE at grade 18, 1.0 FTE grade 12, 1.25 FTE at grade 14, 6.0 FTE at grade 15, 1.0 FTE at grade 13, and 3.0 FTE at grade 10.
9. Set up costs, plus basic operating and equipment, will be appropriated for each region.

FISCAL IMPACT:Expenditures:DFS

	FY 94			FY 95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	3.50	3.50	0.00	3.50	3.50
Personal Service	0	73,592	73,592	0	73,592	73,592
Operating Costs	0	0	0	0	0	0
Benefits	0	0	0	0	0	0
Total	0	73,592	73,592	0	73,592	73,592

(Continued)

David Lewis 2-2-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

JUDY H. JACOBSON, PRIMARY SPONSOR

DATE

Fiscal Note for SB0271, as introduced

SB271

Expenditures: (Continued)

	<u>FY 94</u>			<u>FY 95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Judiciary</u>						
FTE	0.00	13.25	13.25	0.00	13.25	13.25
Personal Service	0	389,013	389,013	0	389,013	389,013
Operating Costs	0	108,500	108,500	0	108,500	108,500
Equipment	<u>0</u>	<u>70,700</u>	<u>70,700</u>	<u>0</u>	<u>18,000</u>	<u>18,000</u>
Total	0	568,213	568,213	0	515,513	515,513

Revenues: (Department of Family Services and Judiciary Combined)

General Fund	0	641,805	641,805	0	589,105	589,105
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Net Impact:

General Fund Increase	0	641,805	641,805	0	589,105	589,105
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Depending on the amount of personal appearances required by department staff, travel costs could escalate.

RE-REFERRED AND
APPROVED BY COMM. ON
FINANCE AND CLAIMS
AS AMENDED

SENATE BILL NO. 271

INTRODUCED BY JACOBSON, RUSSELL, FRANKLIN, KEATING,
YELLOWTAIL, WATERMAN, ECK, SCHYE, CHRISTIAENS, REAM,
BROOKE, HARRINGTON, WANZENRIED, WYATT, COBB, S. RICE,
MENAHAH, B. BROWN, D. BROWN, GAGE, BIRD, BURNETT,
CRIPPEN, BLAYLOCK, BARTLETT, LYNCH, DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING LOCAL
CITIZEN REVIEW BOARDS FOR FOSTER CARE PLACEMENTS; AMENDING
SECTIONS 41-3-205, 41-3-1122, AND 52-2-112, AND 61-3-509,
MCA; REPEALING SECTION 41-3-1115, MCA; AND PROVIDING AN
EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Short title. [Sections 1
through 13] may be cited as the "Local Citizen Review Board
Act".

NEW SECTION. **Section 2.** Establishment of local
citizen review board -- membership. (1) Subject to the
availability of funds, the supreme court shall establish a
local citizen review board in each judicial district in the
state to review the case of each child assigned to foster
care by the youth court of each judicial district, as
provided in Title 41, chapter 5.

(2) A local citizen review board is composed of at

least three and not more than five members appointed by the
chief justice of the supreme court. Each member appointed
must be sworn in by a judge of the judicial district to
which the member is appointed to serve.

(3) The chief justice of the supreme court shall
appoint local citizen review boards according to the
following guidelines:

(a) Members of a local citizen review board must be
recruited from groups with special knowledge of or interest
in foster care and child welfare, which may include but is
not limited to adoptive parents and members of the
professions of law, medicine, psychology, social work, and
education.

(b) As far as practicable, members of a local citizen
review board shall represent the various socioeconomic and
ethnic groups of the area served.

(c) A person employed by the department of family
services, by a private agency regulated, certified,
directed, or licensed by or contracting with the department
of family services, or by a youth court may not serve on a
local citizen review board.

(d) The appointment of a member of a local citizen
review board may be made only from a list approved by the
presiding judge of the youth court to which the member is
appointed to serve.

(e) A member of a local citizen review board must be a resident of one of the counties of the judicial district that the member is appointed to serve.

NEW SECTION. Section 3. Administration -- training -- procedures. (1) Subject to the availability of funds, the office of the supreme court administrator, in accordance with the direction of the supreme court, shall:

(a) establish and approve policies and procedures for the operation of local citizen review boards;

(b) approve and provide training programs for local citizen review board members;

(c) provide consultation services on request to local citizen review boards; and

(d) employ staff and provide for support services for the local citizen review boards.

(2) The office of the supreme court administrator shall provide, in accordance with the direction of the supreme court, a biennial report to the governor, the legislature, and the public regarding:

(a) state laws, policies, and practices affecting permanence and appropriate care for children in the custody of the department of family services and other agencies; and

(b) the effectiveness of local citizen review boards in bringing about permanence and appropriate care for children in the custody of the department of family services and

other agencies.

(3) The supreme court shall adopt procedures for the administration of the local citizen review board program regarding:

(a) the removal of members of local citizen review boards;

(b) the time, content, and manner in which case plans for and case progress reports on a child assigned to foster care must be provided to the local citizen review board by the department of family services, other agencies, or individuals directly responsible for the care of the child;

(c) the provision of written notice of the review to the department of family services, any other agency directly responsible for the care or placement of a child, the parents or their attorneys, foster parents, surrogate parents, mature children or their attorneys, a court-appointed attorney or special advocate of any child, any county attorney or attorney general actively involved in the case, and other interested persons. The notice must include a statement that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(d) securing or excusing the presence at the review of caseworkers and other employees of the department of family services or other agencies directly responsible for the care

1 of the child; and

2 (e) the manner in which local citizen review boards may
3 remove cases from review when review is not required under
4 federal law.

5 NEW SECTION. **Section 4. Removal of members -- grounds.**

6 Grounds for removal of a member of a local citizen review
7 board under [section 3(3)] may include but are not limited
8 to the following:

9 (1) nonparticipation by a local citizen review board
10 member;

11 (2) a member establishing residence in a judicial
12 district other than the judicial district in which the court
13 the person was appointed to serve is located;

14 (3) violation of the confidentiality of information
15 established under [section 6]; or

16 (4) other cause or grounds as necessary for the
17 administration of the program.

18 NEW SECTION. **Section 5. Terms -- officers -- meetings.**

19 (1) A local citizen review board member shall serve at the
20 pleasure of the appointing authority. However, if not
21 otherwise released from service on a local citizen review
22 board, the following provisions apply:

23 (a) A member shall serve a term of 2 years, except that
24 if a vacancy occurs, a successor must be appointed to serve
25 the unexpired term.

1 (b) A member may be reappointed and continue to serve
2 until a successor is appointed.

3 (2) Each local citizen review board shall:

4 (a) elect annually from its membership a presiding
5 officer and vice presiding officer to serve in the absence
6 of the presiding officer; and

7 (b) meet at the nearest department of family services
8 office or another place mutually agreed to by a majority of
9 the local citizen review board as often as it considers
10 necessary to carry out the duties of the board.

11 NEW SECTION. **Section 6. Confidentiality of information**

12 -- penalty. (1) Before beginning to serve on a local citizen
13 review board, each member shall swear or affirm to the court
14 that the member will keep confidential the information
15 reviewed by the board and its actions and recommendations in
16 individual cases.

17 (2) A member of a local citizen review board who
18 violates the duty imposed by subsection (1) is guilty of a
19 misdemeanor punishable by a fine not to exceed \$1,000.

20 NEW SECTION. **Section 7. Access to records.** (1)

21 Notwithstanding the provisions of 41-3-205, a local citizen
22 review board has access to:

23 (a) any records of the youth court that are pertinent
24 to the case; and

25 (b) any records of the department of family services or

other agencies that would be admissible in a dispositional review hearing conducted pursuant to 41-3-406, including school records and reports of private service providers contained in the records of the department of family services or other agencies.

(2) All requested records not already before the local citizen review board must be submitted by the department of family services within 5 working days after receipt of a request. A local citizen review board and any staff provided for the board shall return all records and copies received from the department of family services to the department within 7 working days after completion of the review.

(3) A local citizen review board may retain a reference copy of case material used by the board to make its recommendation if:

(a) the material is necessary for the ongoing work of the local citizen review board with regard to the particular case or to work of the board; and

(b) the confidentiality of the material is continued and protected in the same manner as other material received from the department of family services. Material retained by the local citizen review boards is not subject to disclosure under the public records law.

(4) If a local citizen review board is denied access to requested records, it may request a hearing. The court may

require the organization in possession of the records to show cause why the records should not be made available as provided by this section.

NEW SECTION. Section 8. Assignment of cases for review. Within 10 days of entry of the order of disposition or within 30 days of placement, whichever comes first, the youth court shall assign the case of each child in foster care to a local citizen review board and forward to the board a copy of the petition and the order of disposition for each child who is within the jurisdiction of the youth court and who has been placed in foster care.

NEW SECTION. Section 9. Review -- scope -- procedures -- immunity. (1) Except for cases removed from review under procedures established under [section 3], the local citizen review board shall review the case of each child in foster care that is assigned by the youth court.

(2) The review must take place at times set by the local citizen review board. The first review may not be more than 6 months after the child is placed in foster care. Subsequent reviews must take place at least once every 6 months until the child is no longer within the jurisdiction of the youth court or no longer in foster care.

(3) The youth court, by rule of the court or on an individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete

1 judicial review has taken place within 60 days prior to the
2 next scheduled board review.

3 (4) The local citizen review board shall review any
4 case in which a petition to terminate parental rights has
5 been denied as soon as practical but no later than 45 days
6 after the denial.

7 (5) After reviewing each case, the local citizen review
8 board shall prepare written findings and recommendations
9 with respect to:

10 (a) whether reasonable efforts were made prior to the
11 placement to prevent or to eliminate the need for removal of
12 the child from the home and to make it possible for the
13 child to be returned home;

14 (b) the continuing need for and appropriateness of the
15 placement;

16 (c) compliance with the case plan;

17 (d) the progress that has been made toward alleviating
18 the need for placement;

19 (e) a likely date by which the child may be returned
20 home or placed for adoption;

21 (f) other problems, solutions, or alternatives that the
22 local citizen review board determines should be explored;
23 and

24 (g) whether the youth court should appoint an attorney
25 or other person as special advocate to represent or appear

1 on behalf of the child pursuant to 41-3-303.

2 (6) Whenever a member of a local citizen review board
3 has a potential conflict of interest in a case being
4 reviewed, the member shall declare to the board the nature
5 of the potential conflict prior to participating in the case
6 review. The following provisions apply:

7 (a) The declaration of the member must be recorded in
8 the official records of the local citizen review board.

9 (b) If, in the judgment of the majority of the local
10 citizen review board, the potential conflict of interest may
11 prevent the member from fairly and objectively reviewing the
12 case, the board may remove the member from participation in
13 the review.

14 (7) The local citizen review board shall keep accurate
15 records and retain the records on file. The local citizen
16 review board shall send copies of its written findings and
17 recommendations to the youth court, the department of family
18 services, and other participants in the review.

19 (8) The local citizen review board may hold joint or
20 separate reviews for groups of siblings.

21 (9) The local citizen review board may disclose to
22 parents and their attorneys, foster parents, mature children
23 and their attorneys, and other persons authorized by the
24 board to participate in the case review the records
25 disclosed to the board pursuant to [section 7]. Before

1 participating in a local citizen review board case review,
 2 each participant, other than parents and children, shall
 3 swear or affirm to the board that the participant will keep
 4 confidential the information disclosed by the board in the
 5 case review and will disclose it only as authorized by law.

6 NEW SECTION. Section 10. Recommendations by board. In
 7 addition to reviewing individual cases of children in foster
 8 care, local citizen review boards may make recommendations
 9 to the youth court and to the department of family services
 10 concerning foster care services, policies, procedures, and
 11 laws.

12 NEW SECTION. Section 11. Presence of certain employees
 13 at meetings of board. (1) Unless excused from doing so by
 14 the local citizen review board, the department of family
 15 services and any other agency directly responsible for the
 16 care and placement of the child shall require the presence
 17 of any employees having knowledge of the case at board
 18 meetings.

19 (2) The local citizen review board may require the
 20 presence of specific employees of the department of family
 21 services or any other agency at board meetings. If an
 22 employee fails to be present at the meeting, the local
 23 citizen review board may request a court order. The court
 24 may require the employee to be present and show cause why
 25 the employee should not be compelled to appear before the

1 local citizen review board.

2 (3) As used in this section, "presence" includes
 3 telephone participation, except that the caseworker on the
 4 case at the time of the meeting must be physically present
 5 if required.

6 NEW SECTION. Section 12. Court review of findings and
 7 recommendations of board. (1) Upon receipt of findings and
 8 recommendations from the local citizen review board, the
 9 youth court shall:

10 (a) review the findings and recommendations of the
 11 local citizen review board within 10 days. If the youth
 12 court finds it appropriate, the youth court may on its own
 13 motion schedule a review hearing.

14 (b) cause the findings and recommendations of the local
 15 citizen review board to become part of the youth court file;
 16 and

17 (c) give the local citizen review board written notice
 18 if the youth court modifies, alters, or takes action on a
 19 case as a result of the board's recommendations.

20 (2) Upon receipt of findings and recommendations from
 21 the local citizen review board, the department of family
 22 services shall:

23 (a) review the findings and recommendations of the
 24 local citizen review board within 10 days. The
 25 recommendations must be implemented and the case plan

1 modified as the department of family services considers
2 appropriate and as resources permit.

3 (b) give the local citizen review board written notice
4 as soon as practicable, but in no case later than 7 days
5 after the review is completed, if the department of family
6 services does not intend to implement the recommendations;
7 and

8 (c) include the findings and recommendations of the
9 local citizen review board as part of the case file of the
10 department of family services.

11 (3) Upon its own motion or upon the request of the
12 department of family services, the local citizen review
13 board, or any interested party, the youth court may appoint
14 an attorney or other person as special advocate to represent
15 or appear on behalf of the child. Subject to the direction
16 of the youth court, the court-appointed special advocate
17 shall:

18 (a) investigate all relevant information about the
19 case;

20 (b) advocate for the child, ensuring that all relevant
21 facts are brought before the court;

22 (c) facilitate and negotiate to ensure that the youth
23 court, the department of family services, and the child's
24 attorney fulfill their obligations to the child in a timely
25 fashion; and

1 (d) monitor all youth court orders to ensure compliance
2 and to bring to the youth court's attention any change in
3 circumstance that may require modification of the youth
4 court's order.

5 NEW SECTION. **Section 13. Dispositional review hearing**
6 **by youth court.** (1) The youth court shall conduct a
7 dispositional review hearing within 18 months after the
8 original placement and conduct a review hearing periodically
9 during the continuation of foster care. Unless good cause
10 otherwise is shown, the youth court shall conduct a
11 dispositional review hearing at any time upon the request of
12 the department of family services, an agency directly
13 responsible for care or placement of the child, a parent
14 whose parental rights have not been terminated, an attorney
15 for the child, a court-appointed special advocate, or a
16 local citizen review board. The youth court shall schedule
17 the hearing as soon as possible after receiving a request.

18 (2) The court may order that the child or any other
19 person be present during the hearing.

20 (3) The court shall notify the parties listed in
21 subsection (1) and any other interested parties of the
22 hearing. The notice must state the time and place of the
23 hearing. Upon request of the youth court, the department of
24 family services or other legal custodian of the child shall
25 provide the youth court with information concerning the

whereabouts and identity of the parties.

(4) The youth court shall enter an order within 20 days after the review hearing. If the child is in foster care, the order must include a determination of:

(a) whether the child should be returned to the parent;

(b) whether the child should be placed for adoption;

(c) whether the child should continue in foster care for a specified period; or

(d) whether, because of special needs or circumstances, the child should be placed in the permanent custody or guardianship of a responsible relative or other individual or should continue in foster care on a permanent or long-term basis.

(5) If the court determines that the child must be placed or must continue in foster care or must be placed in the custody or guardianship of a responsible relative or other individual, the youth court shall enter written findings specifying why placement with parents or adoption is not appropriate. If the current placement is not expected to be permanent, the youth court shall specify a projected timetable for return of the child to the child's home or for permanent placement. If the timetable set forth by the youth court is not met, the department of family services shall promptly notify the youth court and the parties.

(6) In the course of the dispositional review hearing,

the youth court may determine the adequacy of and compliance with the case plan and case progress report. In addition to other orders, the youth court may:

(a) order the department of family services to develop or to expand a case plan or case progress report that must be submitted within 10 days after the hearing;

(b) set a court hearing at a specific later time;

(c) direct the local citizen review board to review the status of the child prior to its next review, as provided in [section 9];

(d) order the department of family services or other agency directly responsible for the child to modify the care, placement, or supervision of the child; and

(e) determine whether the department of family services or other agency directly responsible for the child has made reasonable efforts to reunify the family.

(7) The dispositional review hearing must be conducted in the manner provided in 41-3-406.

(8) Any decision of the youth court made pursuant to the dispositional review hearing is a final order for the purposes of 41-3-406.

Section 14. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions.

(1) The case records of the department of social and rehabilitation services, the department of family services

1 and its local affiliate, the county welfare department, the
 2 county attorney, and the court concerning actions taken
 3 under this chapter and all records concerning reports of
 4 child abuse and neglect ~~shall~~ must be kept confidential
 5 except as provided by this section. Any person who permits
 6 or encourages the unauthorized dissemination of their
 7 contents is guilty of a misdemeanor.

8 (2) Records may be disclosed to a court for in camera
 9 inspection if relevant to an issue before it. The court may
 10 permit public disclosure if it finds such disclosure to be
 11 necessary for the fair resolution of an issue before it.

12 (3) Records may also be disclosed to the following
 13 persons or entities in this state or any other state:

14 (a) a department, agency, or organization, including
 15 federal agencies, legally authorized to receive, inspect, or
 16 investigate reports of child abuse or neglect;

17 (b) a licensed youth care facility or a licensed
 18 child-placing agency that is providing services to the
 19 family or child who is the subject of a report in the
 20 records;

21 (c) a licensed health or mental health professional who
 22 is treating the family or child who is the subject of a
 23 report in the records;

24 (d) a parent or guardian of the child who is the
 25 subject of a report in the records or other person

1 responsible for the child's welfare, without disclosure of
 2 the identity of any person who reported or provided
 3 information on the alleged child abuse or neglect incident
 4 contained in the records;

5 (e) a child named in the records who was allegedly
 6 abused or neglected or ~~his~~ the child's guardian ad litem;

7 (f) the members of an interdisciplinary child
 8 protective team authorized under 41-3-108 for the purposes
 9 of assessing the needs of the child and family, formulating
 10 a treatment plan, and monitoring the plan;

11 (g) a department or agency investigating an applicant
 12 for a license to operate a youth care facility, day-care
 13 facility, or child-placing agency if the investigation is
 14 based on a substantiated report and the applicant is
 15 notified of the investigation;

16 (h) an employee of the department if disclosure of the
 17 records is necessary for administration of programs designed
 18 to benefit the child;

19 (i) an agency of an Indian tribe or the relatives of an
 20 Indian child if disclosure of the records is necessary to
 21 meet requirements of the federal Indian Child Welfare Act;

22 (j) a youth probation officer who is working in an
 23 official capacity with the child who is the subject of a
 24 report in the records;

25 (k) a county attorney or peace officer if disclosure is

necessary for the investigation or prosecution of a case involving child abuse or neglect;

(1) ~~a foster care review committee established under 41-3-1115~~ a local citizen review board established under [sections 1 through 13];

(m) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer as provided in 41-3-202;

(n) a member of a county interdisciplinary child information team formed under 52-2-211 who is not listed in subsection (3); or

(o) members of a local interagency staffing group provided for in 52-2-203.

(4) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a).

(5) Nothing in this section is intended to affect the confidentiality of criminal court records or records of law enforcement agencies."

Section 15. Section 41-3-1122, MCA, is amended to read:

"41-3-1122. Payment for support of youth in need of care, youth in need of supervision, or delinquent youth -- reimbursement by county. (1) Whenever a youth who is a youth

in need of care, a youth in need of supervision, or a delinquent youth is placed by the department of family services in a youth care facility, the department shall pay, within the limits of the appropriation for that purpose, a foster care payment to the youth care facility at a rate established by the department for board, clothing, personal needs, treatment, and room of the youth.

(2) On or before the 20th of each month the department shall present a claim to the county of residence of the youth for no more than one-half of the nonfederal share of the payments so made during the month. The county must make reimbursement to the department within 20 days after the claim is presented.

(3) Except as provided in subsection (4), when a county's level of expenditure for any year reaches the level of reimbursement for foster care in fiscal year 1987, the county has no further obligation for foster care expenditures.

(4) If a county's level of expenditure for foster care in fiscal year 1987 is \$10,000 or less, the county's level of expenditure for purposes of determining the county's reimbursement specified in subsection (3) is the level of expenditures for fiscal year 1987 or the average of expenditures for fiscal years 1984 through 1987, whichever is less.

(5) The department shall conduct or arrange for the review required under ~~41-3-1115~~ [section 9] of a youth placed in a youth care facility if the youth is placed by the department."

Section 16. Section 52-2-112, MCA, is amended to read:

"52-2-112. Duty to strengthen child welfare services. The department shall make provision for establishing and strengthening child welfare services, including protective services, and for care of children in licensed family foster homes, child care agencies, group homes, or treatment facilities. Payment provided under this section is made under the provisions of 41-3-1122 and ~~41-3-1115~~."

SECTION 17. SECTION 61-3-509, MCA, IS AMENDED TO READ:

"61-3-509. Disposition of taxes. (1) Except as provided in subsection (2), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under 61-3-504, 61-3-521, and 61-3-537 to a motor vehicle suspense fund, and at some time between March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) The Subject to legislative appropriations to implement [sections 1 through 13], the county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the general fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901. Any amount forwarded to the state treasurer under this subsection that is not used for district court expenses must be refunded to the counties in the proportion that the amount collected from each county bears to the total amount collected.

NEW SECTION. SECTION 18. CONTINGENCY PROVISION. [THIS ACT] IS CONTINGENT UPON THE FOLLOWING APPROPRIATIONS BEING INCLUDED IN HOUSE BILL NO. 2 OR ANOTHER APPROPRIATION BILL PASSED AND APPROVED FOR THE 1995 BIENNium:

(1) THERE IS APPROPRIATED TO THE DEPARTMENT OF FAMILY SERVICES \$73,592 IN FISCAL 1994 AND \$73,592 IN FISCAL 1995 FROM THE GENERAL FUND FOR THE PURPOSES OF IMPLEMENTING [THIS ACT]. THERE IS APPROPRIATED TO THE MONTANA SUPREME COURT \$242,908 IN FISCAL 1994 AND \$242,908 IN FISCAL 1995 FROM THE

1 GENERAL FUND FOR THE PURPOSES OF IMPLEMENTING [THIS ACT].

2 (2) THERE IS APPROPRIATED TO THE MONTANA SUPREME COURT
3 \$325,305 IN FISCAL 1994 AND \$272,908 IN FISCAL 1995 FROM THE
4 GENERAL FUNDS COLLECTED PURSUANT TO 61-3-509(2) THAT ARE NOT
5 APPROPRIATED FOR DISTRICT COURT EXPENSES, AS PROVIDED IN
6 3-5-901.

7 (3) [THIS ACT] IS VOID IF SUBSECTIONS (1) AND (2) ARE
8 NOT INCLUDED IN AN APPROPRIATION BILL FOR THE 1995 BIENNIUM
9 THAT IS PASSED AND APPROVED.

10 NEW SECTION. Section 19. Repealer. Section 41-3-1115,
11 MCA, is repealed.

12 NEW SECTION. Section 20. Effective date. [This act] is
13 effective July 1, 1993.

-End-

SENATE BILL NO. 271

INTRODUCED BY JACOBSON, RUSSELL, FRANKLIN, KEATING,
YELLOWTAIL, WATERMAN, ECK, SCHYE, CHRISTIAENS, REAM,
BROOKE, HARRINGTON, WANZENRIED, WYATT, COBB, S. RICE,
MENAHAH, B. BROWN, D. BROWN, GAGE, BIRD, BURNETT,
CRIPPEN, BLAYLOCK, BARTLETT, LYNCH, DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING LOCAL
CITIZEN REVIEW BOARDS FOR FOSTER CARE PLACEMENTS; AMENDING
SECTIONS 41-3-205, 41-3-1122, AND 52-2-112, AND 61-3-509,
MCA; REPEALING SECTION 41-3-1115, MCA; AND PROVIDING AN
EFFECTIVE DATE."

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

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through 13] may be cited as the "Local Citizen Review Board
Act".

NEW SECTION. Section 2. Establishment of local
citizen review board -- membership. (1) Subject to the
availability of funds, the supreme court shall establish a
local citizen review board in each judicial district in the
state to review the case of each child assigned to foster
care by the youth court of each judicial district, as
provided in Title 41, chapter 5.

(2) A local citizen review board is composed of at

least three and not more than five members appointed by the
chief justice of the supreme court. Each member appointed
must be sworn in by a judge of the judicial district to
which the member is appointed to serve.

(3) The chief justice of the supreme court shall
appoint local citizen review boards according to the
following guidelines:

(a) Members of a local citizen review board must be
recruited from groups with special knowledge of or interest
in foster care and child welfare, which may include but is
not limited to adoptive parents and members of the
professions of law, medicine, psychology, social work, and
education.

(b) As far as practicable, members of a local citizen
review board shall represent the various socioeconomic and
ethnic groups of the area served.

(c) A person employed by the department of family
services, by a private agency regulated, certified,
directed, or licensed by or contracting with the department
of family services, or by a youth court may not serve on a
local citizen review board.

(d) The appointment of a member of a local citizen
review board may be made only from a list approved by the
presiding judge of the youth court to which the member is
appointed to serve.

(e) A member of a local citizen review board must be a resident of one of the counties of the judicial district that the member is appointed to serve.

(4) THE MEMBERS OF A LOCAL CITIZEN REVIEW BOARD MUST BE WILLING TO SERVE WITHOUT COMPENSATION.

NEW SECTION. Section 3. Administration -- training -- procedures. (1) Subject to the availability of funds, the office of the supreme court administrator, in accordance with the direction of the supreme court, shall:

(a) establish and approve policies and procedures for the operation of local citizen review boards;

(b) approve and provide training programs for local citizen review board members;

(c) provide consultation services on request to local citizen review boards; and

(d) employ staff and provide for support services for the local citizen review boards.

(2) The office of the supreme court administrator shall provide, in accordance with the direction of the supreme court, a biennial report to the governor, the legislature, and the public regarding:

(a) state laws, policies, and practices affecting permanence and appropriate care for children in the custody of the department of family services and other agencies; and

(b) the effectiveness of local citizen review boards in

bringing about permanence and appropriate care for children in the custody of the department of family services and other agencies.

(3) The supreme court shall adopt procedures for the administration of the local citizen review board program regarding:

(a) the removal of members of local citizen review boards;

(b) the time, content, and manner in which case plans for and case progress reports on a child assigned to foster care must be provided to the local citizen review board by the department of family services, other agencies, or individuals directly responsible for the care of the child;

(c) the provision of written notice of the review to the department of family services, any other agency directly responsible for the care or placement of a child, the parents or their attorneys, foster parents, surrogate parents, mature children or their attorneys, a court-appointed attorney or special advocate of any child, any county attorney or attorney general actively involved in the case, and other interested persons. The notice must include a statement that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(d) securing or excusing the presence at the review of

1 caseworkers and other employees of the department of family
2 services or other agencies directly responsible for the care
3 of the child; and

4 (e) the manner in which local citizen review boards may
5 remove cases from review when review is not required under
6 federal law.

7 **NEW SECTION. Section 4. Removal of members -- grounds.**

8 Grounds for removal of a member of a local citizen review
9 board under [section 3(3)] may include but are not limited
10 to the following:

11 (1) nonparticipation by a local citizen review board
12 member;

13 (2) a member establishing residence in a judicial
14 district other than the judicial district in which the court
15 the person was appointed to serve is located;

16 (3) violation of the confidentiality of information
17 established under [section 6]; or

18 (4) other cause or grounds as necessary for the
19 administration of the program.

20 **NEW SECTION. Section 5. Terms -- officers -- meetings.**

21 (1) A local citizen review board member shall serve at the
22 pleasure of the appointing authority. However, if not
23 otherwise released from service on a local citizen review
24 board, the following provisions apply:

25 (a) A member shall serve a term of 2 years, except that

1 if a vacancy occurs, a successor must be appointed to serve
2 the unexpired term.

3 (b) A member may be reappointed and continue to serve
4 until a successor is appointed.

5 (2) Each local citizen review board shall:

6 (a) elect annually from its membership a presiding
7 officer and vice presiding officer to serve in the absence
8 of the presiding officer; and

9 (b) meet at the nearest department of family services
10 office or another place mutually agreed to by a majority of
11 the local citizen review board as often as it considers
12 necessary to carry out the duties of the board.

13 **NEW SECTION. Section 6. Confidentiality of information**

14 -- penalty. (1) Before beginning to serve on a local citizen
15 review board, each member shall swear or affirm to the court
16 that the member will keep confidential the information
17 reviewed by the board and its actions and recommendations in
18 individual cases.

19 (2) A member of a local citizen review board who
20 violates the duty imposed by subsection (1) is guilty of a
21 misdemeanor punishable by a fine not to exceed \$1,000.

22 **NEW SECTION. Section 7. Access to records. (1)**

23 Notwithstanding the provisions of 41-3-205, a local citizen
24 review board has access to:

25 (a) any records of the youth court that are pertinent

1 to the case; and

2 (b) any records of the department of family services or
3 other agencies that would be admissible in a dispositional
4 review hearing conducted pursuant to 41-3-406, including
5 school records and reports of private service providers
6 contained in the records of the department of family
7 services or other agencies.

8 (2) All requested records not already before the local
9 citizen review board must be submitted by the department of
10 family services within 5 working days after receipt of a
11 request. A local citizen review board and any staff provided
12 for the board shall return all records and copies received
13 from the department of family services to the department
14 within 7 working days after completion of the review.

15 (3) A local citizen review board may retain a reference
16 copy of case material used by the board to make its
17 recommendation if:

18 (a) the material is necessary for the ongoing work of
19 the local citizen review board with regard to the particular
20 case or to work of the board; and

21 (b) the confidentiality of the material is continued
22 and protected in the same manner as other material received
23 from the department of family services. Material retained by
24 the local citizen review boards is not subject to disclosure
25 under the public records law.

1 (4) If a local citizen review board is denied access to
2 requested records, it may request a hearing. The court may
3 require the organization in possession of the records to
4 show cause why the records should not be made available as
5 provided by this section.

6 NEW SECTION. Section 8. Assignment of cases for
7 review. Within 10 days of entry of the order of disposition
8 or within 30 days of placement, whichever comes first, the
9 youth court shall assign the case of each child in foster
10 care to a local citizen review board and forward to the
11 board a copy of the petition and the order of disposition
12 for each child who is within the jurisdiction of the youth
13 court and who has been placed in foster care.

14 NEW SECTION. Section 9. Review -- scope -- procedures
15 -- immunity. (1) Except for cases removed from review under
16 procedures established under [section 3], the local citizen
17 review board shall review the case of each child in foster
18 care that is assigned by the youth court.

19 (2) The review must take place at times set by the
20 local citizen review board. The first review may not be more
21 than 6 months after the child is placed in foster care.
22 Subsequent reviews must take place at least once every 6
23 months until the child is no longer within the jurisdiction
24 of the youth court or no longer in foster care.

25 (3) The youth court, by rule of the court or on an

individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(4) The local citizen review board shall review any case in which a petition to terminate parental rights has been denied as soon as practical but no later than 45 days after the denial.

(5) After reviewing each case, the local citizen review board shall prepare written findings and recommendations with respect to:

(a) whether reasonable efforts were made prior to the placement to prevent or to eliminate the need for removal of the child from the home and to make it possible for the child to be returned home;

(b) the continuing need for and appropriateness of the placement;

(c) compliance with the case plan;

(d) the progress that has been made toward alleviating the need for placement;

(e) a likely date by which the child may be returned home or placed for adoption;

(f) other problems, solutions, or alternatives that the local citizen review board determines should be explored; and

(g) whether the youth court should appoint an attorney or other person as special advocate to represent or appear on behalf of the child pursuant to 41-3-303.

(6) Whenever a member of a local citizen review board has a potential conflict of interest in a case being reviewed, the member shall declare to the board the nature of the potential conflict prior to participating in the case review. The following provisions apply:

(a) The declaration of the member must be recorded in the official records of the local citizen review board.

(b) If, in the judgment of the majority of the local citizen review board, the potential conflict of interest may prevent the member from fairly and objectively reviewing the case, the board may remove the member from participation in the review.

(7) The local citizen review board shall keep accurate records and retain the records on file. The local citizen review board shall send copies of its written findings and recommendations to the youth court, the department of family services, and other participants in the review.

(8) The local citizen review board may hold joint or separate reviews for groups of siblings.

(9) The local citizen review board may disclose to parents and their attorneys, foster parents, mature children and their attorneys, and other persons authorized by the

board to participate in the case review the records disclosed to the board pursuant to [section 7]. Before participating in a local citizen review board case review, each participant, other than parents and children, shall swear or affirm to the board that the participant will keep confidential the information disclosed by the board in the case review and will disclose it only as authorized by law.

NEW SECTION. Section 10. Recommendations by board. In addition to reviewing individual cases of children in foster care, local citizen review boards may make recommendations to the youth court and to the department of family services concerning foster care services, policies, procedures, and laws.

NEW SECTION. Section 11. Presence of certain employees at meetings of board. (1) Unless excused from doing so by the local citizen review board, the department of family services and any other agency directly responsible for the care and placement of the child shall require the presence of any employees having knowledge of the case at board meetings.

(2) The local citizen review board may require the presence of specific employees of the department of family services or any other agency at board meetings. If an employee fails to be present at the meeting, the local citizen review board may request a court order. The court

may require the employee to be present and show cause why the employee should not be compelled to appear before the local citizen review board.

(3) As used in this section, "presence" includes telephone participation, except that the caseworker on the case at the time of the meeting must be physically present if required.

NEW SECTION. Section 12. Court review of findings and recommendations of board. (1) Upon receipt of findings and recommendations from the local citizen review board, the youth court shall:

(a) review the findings and recommendations of the local citizen review board within 10 days. If the youth court finds it appropriate, the youth court may on its own motion schedule a review hearing.

(b) cause the findings and recommendations of the local citizen review board to become part of the youth court file; and

(c) give the local citizen review board written notice if the youth court modifies, alters, or takes action on a case as a result of the board's recommendations.

(2) Upon receipt of findings and recommendations from the local citizen review board, the department of family services shall:

(a) review the findings and recommendations of the

1 local citizen review board within 10 days. The
2 recommendations must be implemented and the case plan
3 modified as the department of family services considers
4 appropriate and as resources permit.

5 (b) give the local citizen review board written notice
6 as soon as practicable, but in no case later than 7 days
7 after the review is completed, if the department of family
8 services does not intend to implement the recommendations;
9 and

10 (c) include the findings and recommendations of the
11 local citizen review board as part of the case file of the
12 department of family services.

13 (3) Upon its own motion or upon the request of the
14 department of family services, the local citizen review
15 board, or any interested party, the youth court may appoint
16 an attorney or other person as special advocate to represent
17 or appear on behalf of the child. Subject to the direction
18 of the youth court, the court-appointed special advocate
19 shall:

20 (a) investigate all relevant information about the
21 case;

22 (b) advocate for the child, ensuring that all relevant
23 facts are brought before the court;

24 (c) facilitate and negotiate to ensure that the youth
25 court, the department of family services, and the child's

1 attorney fulfill their obligations to the child in a timely
2 fashion; and

3 (d) monitor all youth court orders to ensure compliance
4 and to bring to the youth court's attention any change in
5 circumstance that may require modification of the youth
6 court's order.

7 **NEW SECTION. Section 13. Dispositional review hearing**
8 **by youth court.** (1) The youth court shall conduct a
9 dispositional review hearing within 18 months after the
10 original placement and conduct a review hearing periodically
11 during the continuation of foster care. Unless good cause
12 otherwise is shown, the youth court shall conduct a
13 dispositional review hearing at any time upon the request of
14 the department of family services, an agency directly
15 responsible for care or placement of the child, a parent
16 whose parental rights have not been terminated, an attorney
17 for the child, a court-appointed special advocate, or a
18 local citizen review board. The youth court shall schedule
19 the hearing as soon as possible after receiving a request.

20 (2) The court may order that the child or any other
21 person be present during the hearing.

22 (3) The court shall notify the parties listed in
23 subsection (1) and any other interested parties of the
24 hearing. The notice must state the time and place of the
25 hearing. Upon request of the youth court, the department of

1 family services or other legal custodian of the child shall
2 provide the youth court with information concerning the
3 whereabouts and identity of the parties.

4 (4) The youth court shall enter an order within 20 days
5 after the review hearing. If the child is in foster care,
6 the order must include a determination of:

7 (a) whether the child should be returned to the parent;

8 (b) whether the child should be placed for adoption;

9 (c) whether the child should continue in foster care
10 for a specified period; or

11 (d) whether, because of special needs or circumstances,
12 the child should be placed in the permanent custody or
13 guardianship of a responsible relative or other individual
14 or should continue in foster care on a permanent or
15 long-term basis.

16 (5) If the court determines that the child must be
17 placed or must continue in foster care or must be placed in
18 the custody or guardianship of a responsible relative or
19 other individual, the youth court shall enter written
20 findings specifying why placement with parents or adoption
21 is not appropriate. If the current placement is not expected
22 to be permanent, the youth court shall specify a projected
23 timetable for return of the child to the child's home or for
24 permanent placement. If the timetable set forth by the youth
25 court is not met, the department of family services shall

1 promptly notify the youth court and the parties.

2 (6) In the course of the dispositional review hearing,
3 the youth court may determine the adequacy of and compliance
4 with the case plan and case progress report. In addition to
5 other orders, the youth court may:

6 (a) order the department of family services to develop
7 or to expand a case plan or case progress report that must
8 be submitted within 10 days after the hearing;

9 (b) set a court hearing at a specific later time;

10 (c) direct the local citizen review board to review the
11 status of the child prior to its next review, as provided in
12 [section 9];

13 (d) order the department of family services or other
14 agency directly responsible for the child to modify the
15 care, placement, or supervision of the child; and

16 (e) determine whether the department of family services
17 or other agency directly responsible for the child has made
18 reasonable efforts to reunify the family.

19 (7) The dispositional review hearing must be conducted
20 in the manner provided in 41-3-406.

21 (8) Any decision of the youth court made pursuant to
22 the dispositional review hearing is a final order for the
23 purposes of 41-3-406.

24 **Section 14.** Section 41-3-205, MCA, is amended to read:

25 "41-3-205. Confidentiality -- disclosure exceptions.

(1) The case records of the department of social and rehabilitation services, the department of family services and its local affiliate, the county welfare department, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect ~~shall~~ must be kept confidential except as provided by this section. Any person who permits or encourages the unauthorized dissemination of their contents is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds such disclosure to be necessary for the fair resolution of an issue before it.

(3) Records may also be disclosed to the following persons or entities in this state or any other state:

(a) a department, agency, or organization, including federal agencies, legally authorized to receive, inspect, or investigate reports of child abuse or neglect;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records;

(c) a licensed health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or his the child's guardian ad litem;

(f) the members of an interdisciplinary child protective team authorized under 41-3-108 for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(g) a department or agency investigating an applicant for a license to operate a youth care facility, day-care facility, or child-placing agency if the investigation is based on a substantiated report and the applicant is notified of the investigation;

(h) an employee of the department if disclosure of the records is necessary for administration of programs designed to benefit the child;

(i) an agency of an Indian tribe or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(j) a youth probation officer who is working in an official capacity with the child who is the subject of a

1 report in the records;

2 (k) a county attorney or peace officer if disclosure is
3 necessary for the investigation or prosecution of a case
4 involving child abuse or neglect;

5 (l) ~~a foster care review committee established under~~
6 41-3-1115 a local citizen review board established under
7 [sections 1 through 13];

8 (m) a school employee participating in an interview of
9 a child by a social worker, county attorney, or peace
10 officer as provided in 41-3-202;

11 (n) a member of a county interdisciplinary child
12 information team formed under 52-2-211 who is not listed in
13 subsection (3); or

14 (o) members of a local interagency staffing group
15 provided for in 52-2-203.

16 (4) A person who is authorized to receive records under
17 this section shall maintain the confidentiality of the
18 records and may not disclose information in the records to
19 anyone other than the persons described in subsection
20 (3)(a).

21 (5) Nothing in this section is intended to affect the
22 confidentiality of criminal court records or records of law
23 enforcement agencies."

24 **Section 15.** Section 41-3-1122, MCA, is amended to read:

25 "41-3-1122. Payment for support of youth in need of

1 care, youth in need of supervision, or delinquent youth --
2 reimbursement by county. (1) Whenever a youth who is a youth
3 in need of care, a youth in need of supervision, or a
4 delinquent youth is placed by the department of family
5 services in a youth care facility, the department shall pay,
6 within the limits of the appropriation for that purpose, a
7 foster care payment to the youth care facility at a rate
8 established by the department for board, clothing, personal
9 needs, treatment, and room of the youth.

10 (2) On or before the 20th of each month the department
11 shall present a claim to the county of residence of the
12 youth for no more than one-half of the nonfederal share of
13 the payments so made during the month. The county must make
14 reimbursement to the department within 20 days after the
15 claim is presented.

16 (3) Except as provided in subsection (4), when a
17 county's level of expenditure for any year reaches the level
18 of reimbursement for foster care in fiscal year 1987, the
19 county has no further obligation for foster care
20 expenditures.

21 (4) If a county's level of expenditure for foster care
22 in fiscal year 1987 is \$10,000 or less, the county's level
23 of expenditure for purposes of determining the county's
24 reimbursement specified in subsection (3) is the level of
25 expenditures for fiscal year 1987 or the average of

1 expenditures for fiscal years 1984 through 1987, whichever
2 is less.

3 (5) The department shall conduct or arrange for the
4 review required under 41-3-1115 [section 9] of a youth
5 placed in a youth care facility if the youth is placed by
6 the department."

7 **Section 16.** Section 52-2-112, MCA, is amended to read:

8 "52-2-112. Duty to strengthen child welfare services.
9 The department shall make provision for establishing and
10 strengthening child welfare services, including protective
11 services, and for care of children in licensed family foster
12 homes, child care agencies, group homes, or treatment
13 facilities. Payment provided under this section is made
14 under the provisions of 41-3-1122 and 41-3-1115."

15 **SECTION 17. SECTION 61-3-509, MCA, IS AMENDED TO READ:**

16 "61-3-509. Disposition of taxes. (1) Except as provided
17 in subsection (2), the county treasurer shall, after
18 deducting the district court fee, credit all taxes on motor
19 vehicles and fees in lieu of tax on motor homes, travel
20 trailers, and campers collected under 61-3-504, 61-3-521,
21 and 61-3-537 to a motor vehicle suspense fund, and at some
22 time between March 1 and March 10 of each year and every 60
23 days thereafter, the county treasurer shall distribute the
24 money in the motor vehicle suspense fund in the relative
25 proportions required by the levies for state, county, school

1 district, and municipal purposes in the same manner as
2 personal property taxes are distributed.

3 (2) The Subject to legislative appropriations to
4 implement [sections 1 through 13], the county treasurer
5 shall deduct as a district court fee 7% of the amount of the
6 2% tax collected on an automobile or truck having a rated
7 capacity of 1 ton or less. The county treasurer shall credit
8 the fee for district courts to a separate suspense account
9 and shall forward the amount in the account to the state
10 treasurer at the time the county treasurer distributes the
11 motor vehicle suspense fund. The state treasurer shall
12 credit amounts received under this subsection to the general
13 fund to be used for purposes of state funding of the
14 district court expenses as provided in 3-5-901. Any amount
15 forwarded to the state treasurer under this subsection that
16 is not used for district court expenses must be refunded to
17 the counties in the proportion that the amount collected
18 from each county bears to the total amount collected."

19 **NEW SECTION. SECTION 18. CONTINGENCY PROVISION. [THIS**
20 **ACT] IS CONTINGENT UPON THE FOLLOWING APPROPRIATIONS BEING**
21 **INCLUDED IN HOUSE BILL NO. 2 OR ANOTHER APPROPRIATION BILL**
22 **PASSED AND APPROVED FOR THE 1995 BIENNIUM:**

23 (1) THERE IS APPROPRIATED TO THE DEPARTMENT OF FAMILY
24 SERVICES \$73,592 IN FISCAL 1994 AND \$73,592 IN FISCAL 1995
25 FROM THE GENERAL FUND FOR THE PURPOSES OF IMPLEMENTING [THIS

1 ACT]. THERE IS APPROPRIATED TO THE MONTANA SUPREME COURT
2 \$242,908 IN FISCAL 1994 AND \$242,908 IN FISCAL 1995 FROM THE
3 GENERAL FUND FOR THE PURPOSES OF IMPLEMENTING [THIS ACT].

4 (2) THERE IS APPROPRIATED TO THE MONTANA SUPREME COURT
5 \$325,305 IN FISCAL 1994 AND \$272,908 IN FISCAL 1995 FROM THE
6 GENERAL FUNDS COLLECTED PURSUANT TO 61-3-509(2) THAT ARE NOT
7 APPROPRIATED FOR DISTRICT COURT EXPENSES, AS PROVIDED IN
8 3-5-901.

9 (3) [THIS ACT] IS VOID IF SUBSECTIONS (1) AND (2) ARE
10 NOT INCLUDED IN AN APPROPRIATION BILL FOR THE 1995 BIENNium
11 THAT IS PASSED AND APPROVED.

12 NEW SECTION. Section 19. Repealer. Section 41-3-1115,
13 MCA, is repealed.

14 NEW SECTION. Section 20. Effective date. [This act] is
15 effective July 1, 1993.

-End-

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Human Services report that Senate Bill 271 (third reading copy -- blue) be concurred in as amended.

Signed: Wm E Boharski
William Boharski, Chair

And, that such amendments read: Carried by: Rep. Boharski

1. Title, line 8.
Following: "ESTABLISHING"
Insert: "A PILOT PROGRAM FOR A"

2. Title, line 9.
Strike: "BOARDS"
Insert: "BOARD"

3. Title, line 10.
Following: "41-3-205,"
Insert: "41-3-1115, AND"
Following: "AND"
Strike: remainder of line 10

4. Title, line 11.
Strike: "REPEALING SECTION 41-3-1115, MCA;"
Strike: "AN"

5. Title, line 12.
Strike: "DATE"
Insert: "DATES"

6. Page 1, line 16; page 19, line 7
Strike: "13" or "13"
Insert: "14"

Committee Vote:
Yes 12, No 0.

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7. Page 1, line 16
Following: "Board"
Insert: "Pilot Program"

8. Page 1.
Following: line 17
Insert: "NEW SECTION. Section 2. Establishment of pilot program. (1) The office of the supreme court administrator shall solicit written indication of interest from each youth court judge interested in having a local citizen review board established pursuant to [sections 1 through 14] within the jurisdiction of the youth court.
(2) (a) There is a local citizen review board screening committee. The committee is composed of the following members:
(i) a member of the house of representatives, designated by the speaker of the house;
(ii) a member of the senate, designated by the president of the senate;
(iii) a representative of the Montana judges' association, designated by the association; and
(iv) a representative of the office of the supreme court administrator, designated by the chief justice of the supreme court.
(b) The members designated pursuant to subsections (2) (a) (i) and (2) (a) (ii) must be from different political parties.
(3) The committee shall meet at a time agreeable to its members, and the members shall serve without additional compensation.
(4) The committee shall review the responses of youth court judges received pursuant to subsection (1) and shall designate a judicial district to operate the local citizen review board pilot program from among those courts expressing an interest in the program."

Renumber: subsequent sections

9. Page 1, line 20.
Strike: "supreme court"
Insert: "youth court judge of the district designated pursuant to [section 2] to operate the pilot program"

10. Page 1, line 21.
Strike: "each"
Insert: "the"

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11. Page 1, lines 21 and 22.
Strike: "in the state"

12. Page 1, line 23.
Strike: "each"
Insert: "the"

13. Page 2, lines 2 and 6.
Strike: "chief justice of the supreme court"
Insert: "youth court judge of the judicial district designated pursuant to [section 2]"

14. Page 2, line 6.
Following: "appoint"
Insert: "the"
Strike: "boards"
Insert: "board"

15. Page 2, lines 22 through 25.
Strike: subsection (d) in its entirety
Renummer: subsequent subsection

16. Page 3, lines 8 and 9.
Strike: "office" on line 8 through "court," on line 9
Insert: "youth court of the judicial district designated pursuant to [section 2]"

17. Page 3, line 10.
Following: "procedures"
Insert: "that have the force of law"

18. Page 3, line 11.
Following: "of"
Insert: "the"
Strike: "boards"
Insert: "board"

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19. Page 3, line 14.
Following: "request to"
Insert: "the"

20. Page 3, lines 15 and 17.
Strike: "boards"
Insert: "board"

21. Page 3, lines 18 through 20.
Strike: "office" on line 18 through "court," on line 20
Insert: "youth court of the judicial district designated pursuant to [section 2] shall, at the time prescribed by 5-11-210, prepare"
Strike: "biennial"

22. Page 3, line 25.
Following: "of"
Insert: "the"
Strike: "boards"
Insert: "board"

23. Page 4, line 4.
Strike: "supreme court"
Insert: "youth court of the judicial district designated pursuant to [section 2]"
Following: "procedures"
Insert: "that have the force of law"

24. Page 4, line 5.
Following: "board"
Insert: "pilot"

25. Page 4, lines 7 and 8.
Following: the second "of" on line 7
Insert: "the"
Strike: "boards" on line 8
Insert: "board"

26. Page 5, line 4.
Following: "which"
Insert: "the"
Strike: "boards"
Insert: "board"

27. Page 5, line 9.
Strike: "3(3)"
Insert: "4(3)"

28. Page 5, line 17.
Strike: "6"
Insert: "7"

29. Page 6, line 5.
Strike: "Each"
Insert: "The"

30. Page 8, line 16.
Strike: "3"
Insert: "4"

31. Page 11, line 2.
Strike: "7"
Insert: "8"

32. Page 11, line 10.
Following: "care,"
Insert: "the"
Strike: "boards"
Insert: "board"

33. Page 11, line 23.
Following: "agency"
Insert: "or other persons"

34. Page 12, line 21.
Following: "recommendations"
Insert: "or refuses to take action on the board's recommendations
in any case"

35. Page 16, line 12; page 21, line 4.
Strike: "9" or "9"
Insert: "10"

36. Page 19, line 6.

Following: "a"

Insert: "foster care review committee established under 41-3-1115
or, when applicable, the"

37. Page 19.

Following: line 23

Insert: "Section 16. Section 41-3-1115, MCA, is amended to read:

"41-3-1115. Foster care review committee. (1) in Except as provided in [sections 1 through 14], in every judicial district the youth court judge, in consultation with the department, shall appoint a foster care review committee. The members of the committee must be willing to act without compensation. The committee shall be composed of not less than five or more than seven members. The members shall include:

(a) a representative of the department;

(b) a representative of the youth court;

(c) someone knowledgeable in the needs of children in foster care placements who is not employed by the department or the youth court;

(d) a representative of a local school district;

(e) if the child whose care under review is an Indian, someone, preferably an Indian person, knowledgeable about Indian cultural and family matters who is appointed effective only for and during that review; and

(f) if there is one, the foster parent of the child whose care is under review. The foster parent's appointment is effective only for and during that review.

(2) When a child is in foster care under the supervision of the department or if payment for care is made pursuant to 41-3-1122, the committee shall conduct a review of the foster care status of the child. The review must be conducted within a time limit established by the department. The time limit must comply with federal law and may not be later than the 12-month anniversary date of the child's placement into foster care.

(3) The department shall provide the committee with guidelines for operation of the committee. Within 30 days of the foster care review, the committee shall provide the youth court and the department a written report of its findings and recommendations for further action by the youth court or the department.

(4) The department shall adopt rules necessary to carry out the purposes of this section.

(5) Because of the individual privacy involved, meetings of the committee, reports of the committee, and information on individuals' cases shared by committee members is confidential and subject to the confidentiality requirements of the department.

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(6) The committee is subject to the call of the youth court judge to meet and confer with ~~him~~ the judge on all matters pertaining to the foster care of a child before the youth court."

Renumber: subsequent sections

38. Page 21, line 4.

Following: "~~41-3-1115~~"

Insert: "41-3-1115 or when applicable,"

39. Page 21, line 7 through page 22, line 18.

Strike: Sections 16 and 17 in their entirety

Renumber: subsequent sections

40. Page 22, lines 24 and 25.

Strike: "\$73,592 IN FISCAL 1994 AND \$73,592 IN FISCAL 1995 FROM
THE GENERAL FUND"

Insert: "\$10,513 from the general fund for the biennium ending
June 30, 1995,"

41. Page 23, lines 1 through 3.

Strike: "MONTANA SUPREME COURT \$242,908 IN FISCAL 1994 AND
\$242,908 IN FISCAL 1995 FROM THE GENERAL FUND"

Insert: "youth court of the judicial district designated pursuant
to [section 2] \$113,232 from the general fund for the
biennium ending June 30, 1995,"

42. Page 23, lines 4 through 8.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

43. Page 23, line 9.

Strike: "SUBSECTIONS (1) AND (2) ARE"

Insert: "subsection (1) is"

44. Page 23, lines 12 and 13.

Strike: section 19 in its entirety

Renumber: subsequent section

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45. Page 23, line 14.

Strike: "date"

Insert: "dates"

Strike: "[This act]"

Insert: "(1) [Sections 18 and 20 and this section] are effective
on passage and approval.

(2) [Section 4]"

46. Page 23.

Following: line 15

Insert: "(3) [Sections 1 through 3 and 5 through 17] are
effective January 1, 1997."

NEW SECTION. Section 20. Termination. [This act]
terminates July 1, 1995.

-END-

SENATE BILL NO. 271

INTRODUCED BY JACOBSON, RUSSELL, FRANKLIN, KEATING,
YELLOWTAIL, WATERMAN, ECK, SCHYE, CHRISTIAENS, REAM,
BROOKE, HARRINGTON, WANZENRIED, WYATT, COBB, S. RICE,
MENAHAH, B. BROWN, D. BROWN, GAGE, BIRD, BURNETT,
CRIPPEN, BLAYLOCK, BARTLETT, LYNCH, DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PILOT
PROGRAM FOR A LOCAL CITIZEN REVIEW BOARD FOR FOSTER
CARE PLACEMENTS; AMENDING SECTIONS 41-3-205, 41-3-1115, AND
41-3-1122, AND 52-2-1127 AND 61-3-5097 MCA; REPEALING
SECTION 41-3-11157-MCA, AND PROVIDING AN EFFECTIVE DATE
DATES."

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

NEW SECTION. Section 1. Short title. [Sections 1
through 14] may be cited as the "Local Citizen Review
Board PILOT PROGRAM Act".

NEW SECTION. SECTION 2. ESTABLISHMENT OF PILOT
PROGRAM. (1) THE OFFICE OF THE SUPREME COURT ADMINISTRATOR
SHALL SOLICIT WRITTEN INDICATION OF INTEREST FROM EACH YOUTH
COURT JUDGE INTERESTED IN HAVING A LOCAL CITIZEN REVIEW
BOARD ESTABLISHED PURSUANT TO [SECTIONS 1 THROUGH 14] WITHIN
THE JURISDICTION OF THE YOUTH COURT.

(2) (A) THERE IS A LOCAL CITIZEN REVIEW BOARD SCREENING

COMMITTEE. THE COMMITTEE IS COMPOSED OF THE FOLLOWING
MEMBERS:

(I) A MEMBER OF THE HOUSE OF REPRESENTATIVES,
DESIGNATED BY THE SPEAKER OF THE HOUSE;

(II) A MEMBER OF THE SENATE, DESIGNATED BY THE PRESIDENT
OF THE SENATE;

(III) A REPRESENTATIVE OF THE MONTANA JUDGES'
ASSOCIATION, DESIGNATED BY THE ASSOCIATION; AND

(IV) A REPRESENTATIVE OF THE OFFICE OF THE SUPREME COURT
ADMINISTRATOR, DESIGNATED BY THE CHIEF JUSTICE OF THE
SUPREME COURT.

(B) THE MEMBERS DESIGNATED PURSUANT TO SUBSECTIONS
(2)(A)(I) AND (2)(A)(II) MUST BE FROM DIFFERENT POLITICAL
PARTIES.

(3) THE COMMITTEE SHALL MEET AT A TIME AGREEABLE TO ITS
MEMBERS, AND THE MEMBERS SHALL SERVE WITHOUT ADDITIONAL
COMPENSATION.

(4) THE COMMITTEE SHALL REVIEW THE RESPONSES OF YOUTH
COURT JUDGES RECEIVED PURSUANT TO SUBSECTION (1) AND SHALL
DESIGNATE A JUDICIAL DISTRICT TO OPERATE THE LOCAL CITIZEN
REVIEW BOARD PILOT PROGRAM FROM AMONG THOSE COURTS
EXPRESSING AN INTEREST IN THE PROGRAM.

NEW SECTION. Section 3. Establishment of local
citizen review board -- membership. (1) Subject to the
availability of funds, the supreme-court YOUTH COURT JUDGE

1 OF THE DISTRICT DESIGNATED PURSUANT TO [SECTION 2] TO
 2 OPERATE THE PILOT PROGRAM shall establish a local citizen
 3 review board in each THE judicial district in-the-state to
 4 review the case of each child assigned to foster care by the
 5 youth court of each THE judicial district, as provided in
 6 Title 41, chapter 5.

7 (2) A local citizen review board is composed of at
 8 least three and not more than five members appointed by the
 9 ~~chief--justice-of-the-supreme-court~~ YOUTH COURT JUDGE OF THE
 10 JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2]. Each
 11 member appointed must be sworn in by a judge of the judicial
 12 district to which the member is appointed to serve.

13 (3) The ~~chief--justice-of-the-supreme-court~~ YOUTH COURT
 14 JUDGE OF THE JUDICIAL DISTRICT DESIGNATED PURSUANT TO
 15 [SECTION 2] shall appoint THE local citizen review boards
 16 BOARD according to the following guidelines:

17 (a) Members of a local citizen review board must be
 18 recruited from groups with special knowledge of or interest
 19 in foster care and child welfare, which may include but is
 20 not limited to adoptive parents and members of the
 21 professions of law, medicine, psychology, social work, and
 22 education.

23 (b) As far as practicable, members of a local citizen
 24 review board shall represent the various socioeconomic and
 25 ethnic groups of the area served.

1 (c) A person employed by the department of family
 2 services, by a private agency regulated, certified,
 3 directed, or licensed by or contracting with the department
 4 of family services, or by a youth court may not serve on a
 5 local citizen review board.

6 ~~{d}--The-appointment-of-a--member--of--a--local--citizen~~
 7 ~~review--board--may--be-made-only-from-a-list-approved-by-the~~
 8 ~~presiding-judge-of-the-youth-court-to-which--the--member--is~~
 9 ~~appointed-to-serve;~~

10 ~~{e}~~(D) A member of a local citizen review board must be
 11 a resident of one of the counties of the judicial district
 12 that the member is appointed to serve.

13 (4) THE MEMBERS OF A LOCAL CITIZEN REVIEW BOARD MUST BE
 14 WILLING TO SERVE WITHOUT COMPENSATION.

15 NEW SECTION. Section 4. Administration -- training --
 16 procedures. (1) Subject to the availability of funds, the
 17 office-of-the-supreme--court--administratory--in--accordance
 18 with--the-direction-of-the-supreme-court, YOUTH COURT OF THE
 19 JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2] shall:

20 (a) establish and approve policies and procedures THAT
 21 HAVE THE FORCE OF LAW for the operation of THE local citizen
 22 review boards BOARD;

23 (b) approve and provide training programs for local
 24 citizen review board members;

25 (c) provide consultation services on request to THE

1 local citizen review boards BOARD; and

2 (d) employ staff and provide for support services for
3 the local citizen review boards BOARD.

4 (2) ~~The office-of-the-supreme-court-administrator-shall~~
5 ~~provide-in-accordance-with-the-direction-of-the-supreme~~
6 ~~court, YOUTH COURT OF THE JUDICIAL DISTRICT DESIGNATED~~
7 ~~PURSUANT TO [SECTION 2] SHALL, AT THE TIME PRESCRIBED BY~~
8 ~~5-11-210, PREPARE~~ a biennial report to the governor, the
9 legislature, and the public regarding:

10 (a) state laws, policies, and practices affecting
11 permanence and appropriate care for children in the custody
12 of the department of family services and other agencies; and

13 (b) the effectiveness of THE local citizen review
14 boards BOARD in bringing about permanence and appropriate
15 care for children in the custody of the department of family
16 services and other agencies.

17 (3) The ~~supreme--court~~ YOUTH COURT OF THE JUDICIAL
18 DISTRICT DESIGNATED PURSUANT TO [SECTION 2] shall adopt
19 procedures THAT HAVE THE FORCE OF LAW for the administration
20 of the local citizen review board PILOT program regarding:

21 (a) the removal of members of THE local citizen review
22 boards BOARD;

23 (b) the time, content, and manner in which case plans
24 for and case progress reports on a child assigned to foster
25 care must be provided to the local citizen review board by

1 the department of family services, other agencies, or
2 individuals directly responsible for the care of the child;

3 (c) the provision of written notice of the review to
4 the department of family services, any other agency directly
5 responsible for the care or placement of a child, the
6 parents or their attorneys, foster parents, surrogate
7 parents, mature children or their attorneys, a
8 court-appointed attorney or special advocate of any child,
9 any county attorney or attorney general actively involved in
10 the case, and other interested persons. The notice must
11 include a statement that persons receiving a notice may
12 participate in the hearing and be accompanied by a
13 representative.

14 (d) securing or excusing the presence at the review of
15 caseworkers and other employees of the department of family
16 services or other agencies directly responsible for the care
17 of the child; and

18 (e) the manner in which THE local citizen review boards
19 BOARD may remove cases from review when review is not
20 required under federal law.

21 NEW SECTION. Section 5. Removal of members -- grounds.
22 Grounds for removal of a member of a local citizen review
23 board under [section 3(3) 4(3)] may include but are not
24 limited to the following:

25 (1) nonparticipation by a local citizen review board

1 member;

2 (2) a member establishing residence in a judicial
3 district other than the judicial district in which the court
4 the person was appointed to serve is located;

5 (3) violation of the confidentiality of information
6 established under [section 6 7]; or

7 (4) other cause or grounds as necessary for the
8 administration of the program.

9 NEW SECTION. Section 6. Terms -- officers -- meetings.

10 (1) A local citizen review board member shall serve at the
11 pleasure of the appointing authority. However, if not
12 otherwise released from service on a local citizen review
13 board, the following provisions apply:

14 (a) A member shall serve a term of 2 years, except that
15 if a vacancy occurs, a successor must be appointed to serve
16 the unexpired term.

17 (b) A member may be reappointed and continue to serve
18 until a successor is appointed.

19 (2) Each THE local citizen review board shall:

20 (a) elect annually from its membership a presiding
21 officer and vice presiding officer to serve in the absence
22 of the presiding officer; and

23 (b) meet at the nearest department of family services
24 office or another place mutually agreed to by a majority of
25 the local citizen review board as often as it considers

1 necessary to carry out the duties of the board.

2 NEW SECTION. Section 7. Confidentiality of information

3 -- penalty. (1) Before beginning to serve on a local citizen
4 review board, each member shall swear or affirm to the court
5 that the member will keep confidential the information
6 reviewed by the board and its actions and recommendations in
7 individual cases.

8 (2) A member of a local citizen review board who
9 violates the duty imposed by subsection (1) is guilty of a
10 misdemeanor punishable by a fine not to exceed \$1,000.

11 NEW SECTION. Section 8. Access to records. (1)

12 Notwithstanding the provisions of 41-3-205, a local citizen
13 review board has access to:

14 (a) any records of the youth court that are pertinent
15 to the case; and

16 (b) any records of the department of family services or
17 other agencies that would be admissible in a dispositional
18 review hearing conducted pursuant to 41-3-406, including
19 school records and reports of private service providers
20 contained in the records of the department of family
21 services or other agencies.

22 (2) All requested records not already before the local
23 citizen review board must be submitted by the department of
24 family services within 5 working days after receipt of a
25 request. A local citizen review board and any staff provided

for the board shall return all records and copies received from the department of family services to the department within 7 working days after completion of the review.

(3) A local citizen review board may retain a reference copy of case material used by the board to make its recommendation if:

(a) the material is necessary for the ongoing work of the local citizen review board with regard to the particular case or to work of the board; and

(b) the confidentiality of the material is continued and protected in the same manner as other material received from the department of family services. Material retained by the local citizen review boards is not subject to disclosure under the public records law.

(4) If a local citizen review board is denied access to requested records, it may request a hearing. The court may require the organization in possession of the records to show cause why the records should not be made available as provided by this section.

NEW SECTION. Section 9. Assignment of cases for review. Within 10 days of entry of the order of disposition or within 30 days of placement, whichever comes first, the youth court shall assign the case of each child in foster care to a local citizen review board and forward to the board a copy of the petition and the order of disposition

for each child who is within the jurisdiction of the youth court and who has been placed in foster care.

NEW SECTION. Section 10. Review -- scope -- procedures -- immunity. (1) Except for cases removed from review under procedures established under [section 3 4], the local citizen review board shall review the case of each child in foster care that is assigned by the youth court.

(2) The review must take place at times set by the local citizen review board. The first review may not be more than 6 months after the child is placed in foster care. Subsequent reviews must take place at least once every 6 months until the child is no longer within the jurisdiction of the youth court or no longer in foster care.

(3) The youth court, by rule of the court or on an individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(4) The local citizen review board shall review any case in which a petition to terminate parental rights has been denied as soon as practical but no later than 45 days after the denial.

(5) After reviewing each case, the local citizen review board shall prepare written findings and recommendations with respect to:

1 (a) whether reasonable efforts were made prior to the
 2 placement to prevent or to eliminate the need for removal of
 3 the child from the home and to make it possible for the
 4 child to be returned home;
 5 (b) the continuing need for and appropriateness of the
 6 placement;
 7 (c) compliance with the case plan;
 8 (d) the progress that has been made toward alleviating
 9 the need for placement;
 10 (e) a likely date by which the child may be returned
 11 home or placed for adoption;
 12 (f) other problems, solutions, or alternatives that the
 13 local citizen review board determines should be explored;
 14 and
 15 (g) whether the youth court should appoint an attorney
 16 or other person as special advocate to represent or appear
 17 on behalf of the child pursuant to 41-3-303.
 18 (6) Whenever a member of a local citizen review board
 19 has a potential conflict of interest in a case being
 20 reviewed, the member shall declare to the board the nature
 21 of the potential conflict prior to participating in the case
 22 review. The following provisions apply:
 23 (a) The declaration of the member must be recorded in
 24 the official records of the local citizen review board.
 25 (b) If, in the judgment of the majority of the local

1 citizen review board, the potential conflict of interest may
 2 prevent the member from fairly and objectively reviewing the
 3 case, the board may remove the member from participation in
 4 the review.
 5 (7) The local citizen review board shall keep accurate
 6 records and retain the records on file. The local citizen
 7 review board shall send copies of its written findings and
 8 recommendations to the youth court, the department of family
 9 services, and other participants in the review.
 10 (8) The local citizen review board may hold joint or
 11 separate reviews for groups of siblings.
 12 (9) The local citizen review board may disclose to
 13 parents and their attorneys, foster parents, mature children
 14 and their attorneys, and other persons authorized by the
 15 board to participate in the case review the records
 16 disclosed to the board pursuant to [section 7 8]. Before
 17 participating in a local citizen review board case review,
 18 each participant, other than parents and children, shall
 19 swear or affirm to the board that the participant will keep
 20 confidential the information disclosed by the board in the
 21 case review and will disclose it only as authorized by law.
 22 NEW SECTION. Section 11. Recommendations by board. In
 23 addition to reviewing individual cases of children in foster
 24 care, THE local citizen review boards BOARD may make
 25 recommendations to the youth court and to the department of

1 family services concerning foster care services, policies,
2 procedures, and laws.

3 NEW SECTION. Section 12. Presence of certain employees
4 at meetings of board. (1) Unless excused from doing so by
5 the local citizen review board, the department of family
6 services and any other agency directly responsible for the
7 care and placement of the child shall require the presence
8 of any employees having knowledge of the case at board
9 meetings.

10 (2) The local citizen review board may require the
11 presence of specific employees of the department of family
12 services or any other agency OR OTHER PERSONS at board
13 meetings. If an employee fails to be present at the meeting,
14 the local citizen review board may request a court order.
15 The court may require the employee to be present and show
16 cause why the employee should not be compelled to appear
17 before the local citizen review board.

18 (3) As used in this section, "presence" includes
19 telephone participation, except that the caseworker on the
20 case at the time of the meeting must be physically present
21 if required.

22 NEW SECTION. Section 13. Court review of findings and
23 recommendations of board. (1) Upon receipt of findings and
24 recommendations from the local citizen review board, the
25 youth court shall:

1 (a) review the findings and recommendations of the
2 local citizen review board within 10 days. If the youth
3 court finds it appropriate, the youth court may on its own
4 motion schedule a review hearing.

5 (b) cause the findings and recommendations of the local
6 citizen review board to become part of the youth court file;
7 and

8 (c) give the local citizen review board written notice
9 if the youth court modifies, alters, or takes action on a
10 case as a result of the board's recommendations OR REFUSES
11 TO TAKE ACTION ON THE BOARD'S RECOMMENDATIONS IN ANY CASE.

12 (2) Upon receipt of findings and recommendations from
13 the local citizen review board, the department of family
14 services shall:

15 (a) review the findings and recommendations of the
16 local citizen review board within 10 days. The
17 recommendations must be implemented and the case plan
18 modified as the department of family services considers
19 appropriate and as resources permit.

20 (b) give the local citizen review board written notice
21 as soon as practicable, but in no case later than 7 days
22 after the review is completed, if the department of family
23 services does not intend to implement the recommendations;
24 and

25 (c) include the findings and recommendations of the

1 local citizen review board as part of the case file of the
2 department of family services.

3 (3) Upon its own motion or upon the request of the
4 department of family services, the local citizen review
5 board, or any interested party, the youth court may appoint
6 an attorney or other person as special advocate to represent
7 or appear on behalf of the child. Subject to the direction
8 of the youth court, the court-appointed special advocate
9 shall:

10 (a) investigate all relevant information about the
11 case;

12 (b) advocate for the child, ensuring that all relevant
13 facts are brought before the court;

14 (c) facilitate and negotiate to ensure that the youth
15 court, the department of family services, and the child's
16 attorney fulfill their obligations to the child in a timely
17 fashion; and

18 (d) monitor all youth court orders to ensure compliance
19 and to bring to the youth court's attention any change in
20 circumstance that may require modification of the youth
21 court's order.

22 NEW SECTION. **Section 14. Dispositional review hearing**
23 **by youth court.** (1) The youth court shall conduct a
24 dispositional review hearing within 18 months after the
25 original placement and conduct a review hearing periodically

1 during the continuation of foster care. Unless good cause
2 otherwise is shown, the youth court shall conduct a
3 dispositional review hearing at any time upon the request of
4 the department of family services, an agency directly
5 responsible for care or placement of the child, a parent
6 whose parental rights have not been terminated, an attorney
7 for the child, a court-appointed special advocate, or a
8 local citizen review board. The youth court shall schedule
9 the hearing as soon as possible after receiving a request.

10 (2) The court may order that the child or any other
11 person be present during the hearing.

12 (3) The court shall notify the parties listed in
13 subsection (1) and any other interested parties of the
14 hearing. The notice must state the time and place of the
15 hearing. Upon request of the youth court, the department of
16 family services or other legal custodian of the child shall
17 provide the youth court with information concerning the
18 whereabouts and identity of the parties.

19 (4) The youth court shall enter an order within 20 days
20 after the review hearing. If the child is in foster care,
21 the order must include a determination of:

22 (a) whether the child should be returned to the parent;

23 (b) whether the child should be placed for adoption;

24 (c) whether the child should continue in foster care
25 for a specified period; or

1 (d) whether, because of special needs or circumstances,
2 the child should be placed in the permanent custody or
3 guardianship of a responsible relative or other individual
4 or should continue in foster care on a permanent or
5 long-term basis.

6 (5) If the court determines that the child must be
7 placed or must continue in foster care or must be placed in
8 the custody or guardianship of a responsible relative or
9 other individual, the youth court shall enter written
10 findings specifying why placement with parents or adoption
11 is not appropriate. If the current placement is not expected
12 to be permanent, the youth court shall specify a projected
13 timetable for return of the child to the child's home or for
14 permanent placement. If the timetable set forth by the youth
15 court is not met, the department of family services shall
16 promptly notify the youth court and the parties.

17 (6) In the course of the dispositional review hearing,
18 the youth court may determine the adequacy of and compliance
19 with the case plan and case progress report. In addition to
20 other orders, the youth court may:

21 (a) order the department of family services to develop
22 or to expand a case plan or case progress report that must
23 be submitted within 10 days after the hearing;

24 (b) set a court hearing at a specific later time;

25 (c) direct the local citizen review board to review the

1 status of the child prior to its next review, as provided in
2 [section 9 10];

3 (d) order the department of family services or other
4 agency directly responsible for the child to modify the
5 care, placement, or supervision of the child; and

6 (e) determine whether the department of family services
7 or other agency directly responsible for the child has made
8 reasonable efforts to reunify the family.

9 (7) The dispositional review hearing must be conducted
10 in the manner provided in 41-3-406.

11 (8) Any decision of the youth court made pursuant to
12 the dispositional review hearing is a final order for the
13 purposes of 41-3-406.

14 **Section 15.** Section 41-3-205, MCA, is amended to read:

15 **"41-3-205. Confidentiality -- disclosure exceptions.**

16 (1) The case records of the department of social and
17 rehabilitation services, the department of family services
18 and its local affiliate, the county welfare department, the
19 county attorney, and the court concerning actions taken
20 under this chapter and all records concerning reports of
21 child abuse and neglect ~~shall~~ must be kept confidential
22 except as provided by this section. Any person who permits
23 or encourages the unauthorized dissemination of their
24 contents is guilty of a misdemeanor.

25 (2) Records may be disclosed to a court for in camera

1 inspection if relevant to an issue before it. The court may
2 permit public disclosure if it finds such disclosure to be
3 necessary for the fair resolution of an issue before it.

4 (3) Records may also be disclosed to the following
5 persons or entities in this state or any other state:

6 (a) a department, agency, or organization, including
7 federal agencies, legally authorized to receive, inspect, or
8 investigate reports of child abuse or neglect;

9 (b) a licensed youth care facility or a licensed
10 child-placing agency that is providing services to the
11 family or child who is the subject of a report in the
12 records;

13 (c) a licensed health or mental health professional who
14 is treating the family or child who is the subject of a
15 report in the records;

16 (d) a parent or guardian of the child who is the
17 subject of a report in the records or other person
18 responsible for the child's welfare, without disclosure of
19 the identity of any person who reported or provided
20 information on the alleged child abuse or neglect incident
21 contained in the records;

22 (e) a child named in the records who was allegedly
23 abused or neglected or his the child's guardian ad litem;

24 (f) the members of an interdisciplinary child
25 protective team authorized under 41-3-108 for the purposes

1 of assessing the needs of the child and family, formulating
2 a treatment plan, and monitoring the plan;

3 (g) a department or agency investigating an applicant
4 for a license to operate a youth care facility, day-care
5 facility, or child-placing agency if the investigation is
6 based on a substantiated report and the applicant is
7 notified of the investigation;

8 (h) an employee of the department if disclosure of the
9 records is necessary for administration of programs designed
10 to benefit the child;

11 (i) an agency of an Indian tribe or the relatives of an
12 Indian child if disclosure of the records is necessary to
13 meet requirements of the federal Indian Child Welfare Act;

14 (j) a youth probation officer who is working in an
15 official capacity with the child who is the subject of a
16 report in the records;

17 (k) a county attorney or peace officer if disclosure is
18 necessary for the investigation or prosecution of a case
19 involving child abuse or neglect;

20 (l) ~~a--foster--care--review-committee-established-under~~
21 41-3-1115 a FOSTER CARE REVIEW COMMITTEE ESTABLISHED UNDER
22 41-3-1115 OR, WHEN APPLICABLE, THE local citizen review
23 board established under [sections 1 through 13 14];

24 (m) a school employee participating in an interview of
25 a child by a social worker, county attorney, or peace

officer as provided in 41-3-202;

(n) a member of a county interdisciplinary child information team formed under 52-2-211 who is not listed in subsection (3); or

(o) members of a local interagency staffing group provided for in 52-2-203.

(4) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a).

(5) Nothing in this section is intended to affect the confidentiality of criminal court records or records of law enforcement agencies."

SECTION 16. SECTION 41-3-1115, MCA, IS AMENDED TO READ:

"41-3-1115. Foster care review committee. (1) In Except as provided in [sections 1 through 14], in every judicial district the youth court judge, in consultation with the department, shall appoint a foster care review committee. The members of the committee must be willing to act without compensation. The committee shall be composed of not less than five or more than seven members. The members shall include:

(a) a representative of the department;

(b) a representative of the youth court;

(c) someone knowledgeable in the needs of children in foster care placements who is not employed by the department or the youth court;

(d) a representative of a local school district;

(e) if the child whose care under review is an Indian, someone, preferably an Indian person, knowledgeable about Indian cultural and family matters who is appointed effective only for and during that review; and

(f) if there is one, the foster parent of the child whose care is under review. The foster parent's appointment is effective only for and during that review.

(2) When a child is in foster care under the supervision of the department or if payment for care is made pursuant to 41-3-1122, the committee shall conduct a review of the foster care status of the child. The review must be conducted within a time limit established by the department. The time limit must comply with federal law and may not be later than the 12-month anniversary date of the child's placement into foster care.

(3) The department shall provide the committee with guidelines for operation of the committee. Within 30 days of the foster care review, the committee shall provide the youth court and the department a written report of its findings and recommendations for further action by the youth court or the department.

(4) The department shall adopt rules necessary to carry out the purposes of this section.

(5) Because of the individual privacy involved, meetings of the committee, reports of the committee, and information on individuals' cases shared by committee members is confidential and subject to the confidentiality requirements of the department.

(6) The committee is subject to the call of the youth court judge to meet and confer with him the judge on all matters pertaining to the foster care of a child before the youth court."

Section 17. Section 41-3-1122, MCA, is amended to read:

"41-3-1122. Payment for support of youth in need of care, youth in need of supervision, or delinquent youth -- reimbursement by county. (1) Whenever a youth who is a youth in need of care, a youth in need of supervision, or a delinquent youth is placed by the department of family services in a youth care facility, the department shall pay, within the limits of the appropriation for that purpose, a foster care payment to the youth care facility at a rate established by the department for board, clothing, personal needs, treatment, and room of the youth.

(2) On or before the 20th of each month the department shall present a claim to the county of residence of the youth for no more than one-half of the nonfederal share of

the payments so made during the month. The county must make reimbursement to the department within 20 days after the claim is presented.

(3) Except as provided in subsection (4), when a county's level of expenditure for any year reaches the level of reimbursement for foster care in fiscal year 1987, the county has no further obligation for foster care expenditures.

(4) If a county's level of expenditure for foster care in fiscal year 1987 is \$10,000 or less, the county's level of expenditure for purposes of determining the county's reimbursement specified in subsection (3) is the level of expenditures for fiscal year 1987 or the average of expenditures for fiscal years 1984 through 1987, whichever is less.

(5) The department shall conduct or arrange for the review required under ~~41-3-1115~~ 41-3-1115 OR WHEN APPLICABLE, [section 9 10] of a youth placed in a youth care facility if the youth is placed by the department."

Section 16. ~~Section 52-2-112, MCA, is amended to read:--~~

~~"52-2-112.--Duty--to--strengthen-child-welfare-services--The-department-shall-make--provision--for--establishing--and--strengthening--child--welfare-services--including-protective-services--and-for-care-of-children-in-licensed-family-foster homes--child--care--agencies--group--homes--or--treatment~~

facilities; Payment provided under this section is made under the provisions of 41-3-1122 and 41-3-1115."

SECTION 17. ~~SECTION 61-3-509, MCA, IS AMENDED TO READ:~~

"61-3-509. --Disposition of taxes; (1) Except as provided in subsection (2), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under 61-3-504, 61-3-521, and 61-3-537 to a motor vehicle suspense fund, and at some time between March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) The Subject to legislative appropriations to implement sections 1 through 13, the county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the general

fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901. Any amount forwarded to the state treasurer under this subsection that is not used for district court expenses must be refunded to the counties in the proportion that the amount collected from each county bears to the total amount collected."

NEW SECTION. SECTION 18. CONTINGENCY PROVISION. [THIS ACT] IS CONTINGENT UPON THE FOLLOWING APPROPRIATIONS BEING INCLUDED IN HOUSE BILL NO. 2 OR ANOTHER APPROPRIATION BILL PASSED AND APPROVED FOR THE 1995 BIENNIUM:

(1) THERE IS APPROPRIATED TO THE DEPARTMENT OF FAMILY SERVICES \$73,592 IN FISCAL 1994 AND \$73,592 IN FISCAL 1995 FROM THE GENERAL FUND \$10,513 FROM THE GENERAL FUND FOR THE BIENNIUM ENDING JUNE 30, 1995, FOR THE PURPOSES OF IMPLEMENTING [THIS ACT]. THERE IS APPROPRIATED TO THE MONTANA SUPREME COURT \$242,908 IN FISCAL 1994 AND \$242,908 IN FISCAL 1995 FROM THE GENERAL FUND YOUTH COURT OF THE JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2] \$113,232 FROM THE GENERAL FUND FOR THE BIENNIUM ENDING JUNE 30, 1995, FOR THE PURPOSES OF IMPLEMENTING [THIS ACT].

(2) THERE IS APPROPRIATED TO THE MONTANA SUPREME COURT \$325,305 IN FISCAL 1994 AND \$272,908 IN FISCAL 1995 FROM THE GENERAL FUNDS COLLECTED PURSUANT TO 61-3-509(2) THAT ARE NOT APPROPRIATED FOR DISTRICT COURT EXPENSES, AS PROVIDED IN 3-5-901.

1 ~~{3}{2}~~ [THIS ACT] IS VOID IF SUBSECTIONS-~~{1}~~-AND-~~{2}~~
2 ARE SUBSECTION (1) IS NOT INCLUDED IN AN APPROPRIATION BILL
3 FOR THE 1995 BIENNIUM THAT IS PASSED AND APPROVED.

4 ~~NEW-SECTION--Section 19--Repealer--Section 41-3-1115--~~
5 ~~MEAs-is-repealed~~

6 NEW SECTION. Section 19. Effective date DATES. [This
7 act} (1) [SECTIONS 18 AND 20 AND THIS SECTION] ARE EFFECTIVE
8 ON PASSAGE AND APPROVAL.

9 (2) [SECTION 4] is effective July 1, 1993.

10 (3) [SECTIONS 1 THROUGH 3 AND 5 THROUGH 17] ARE
11 EFFECTIVE JANUARY 1, 1997.

12 NEW SECTION. SECTION 20. TERMINATION. [THIS ACT]
13 TERMINATES JULY 1, 1995.

-End-

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 271, met and considered: House amendments to Senate Bill No. 271. We recommend that Senate Bill No. 271 (reference copy - salmon) be amended as follows:

1. Title, line 9.
Following: "FOR"
Strike: "A"
Following: "BOARDS"
Strike: "BOARD"
Insert: "BOARDS"

2. Title, line 12.
Following: "AN"
Insert: "AN"

3. Title, line 13.
Strike: "DATES"
Insert: "DATE"

4. Page 2, line 20.
Following: "DESIGNATE"
Strike: "A"
Following: "JUDICIAL"
Strike: "DISTRICT"
Insert: "districts"
Following: "OPERATE"
Strike: "THE"
Insert: "a"

5. Page 3, line 1.
Page 3, line 2.
Page 3, line 9.
Page 3, line 14.
Page 4, line 18.
Page 5, line 6.
Page 5, line 17.
Page 7, line 19.
Page 12, line 24.
Page 20, line 22.
Strike: "THE"
Insert: "a"

6. Page 26, lines 17 and 18.
Following: "FUND" on line 17
Strike: remainder of line 17 and line 18 in its entirety
Insert: "Montana supreme court"

ADOPT

REJECT


891614CC.Sma

7. Page 27, lines 6 through 13.
Strike: sections 19 and 20 in their entirety
Insert: "NEW SECTION. Section 19. Effective date. [This act]
is effective July 1, 1993."

And that this Conference Committee report be adopted.

For the Senate:

For the House:


Senator Jacobson, Chair


Representative Simpkins, Chair


Senator Beck


Representative Smith


Senator Christiaens


Representative Strizich

M-
Amd. Coord.
IN
Sec. of Senate

SENATE BILL NO. 271

INTRODUCED BY JACOBSON, RUSSELL, FRANKLIN, KEATING,
 YELLOWTAIL, WATERMAN, ECK, SCHYE, CHRISTIAENS, REAM,
 BROOKE, HARRINGTON, WANZENRIED, WYATT, COBB, S. RICE,
 MENAHAN, B. BROWN, D. BROWN, GAGE, BIRD, BURNETT,
 CRIPPEN, BLAYLOCK, BARTLETT, LYNCH, DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PILOT
 PROGRAM FOR A LOCAL CITIZEN REVIEW BOARD'S BOARD BOARDS FOR
 FOSTER CARE PLACEMENTS; AMENDING SECTIONS 41-3-205,
 41-3-1115, AND 41-3-1122, AND 52-2-112, AND 61-3-509, MCA;
 REPEALING--SECTION--41-3-1115--MCA, AND PROVIDING AN AN
 EFFECTIVE DATE DATE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1
 through 14] may be cited as the "Local Citizen Review
 Board PILOT PROGRAM Act".

NEW SECTION. SECTION 2. ESTABLISHMENT OF PILOT
PROGRAM. (1) THE OFFICE OF THE SUPREME COURT ADMINISTRATOR
SHALL SOLICIT WRITTEN INDICATION OF INTEREST FROM EACH YOUTH
COURT JUDGE INTERESTED IN HAVING A LOCAL CITIZEN REVIEW
BOARD ESTABLISHED PURSUANT TO [SECTIONS 1 THROUGH 14] WITHIN
THE JURISDICTION OF THE YOUTH COURT.

(2) (A) THERE IS A LOCAL CITIZEN REVIEW BOARD SCREENING

COMMITTEE. THE COMMITTEE IS COMPOSED OF THE FOLLOWING
MEMBERS:

(I) A MEMBER OF THE HOUSE OF REPRESENTATIVES,
DESIGNATED BY THE SPEAKER OF THE HOUSE;

(II) A MEMBER OF THE SENATE, DESIGNATED BY THE PRESIDENT
OF THE SENATE;

(III) A REPRESENTATIVE OF THE MONTANA JUDGES'
ASSOCIATION, DESIGNATED BY THE ASSOCIATION; AND

(IV) A REPRESENTATIVE OF THE OFFICE OF THE SUPREME COURT
ADMINISTRATOR, DESIGNATED BY THE CHIEF JUSTICE OF THE
SUPREME COURT.

(B) THE MEMBERS DESIGNATED PURSUANT TO SUBSECTIONS
(2)(A)(I) AND (2)(A)(II) MUST BE FROM DIFFERENT POLITICAL
PARTIES.

(3) THE COMMITTEE SHALL MEET AT A TIME AGREEABLE TO ITS
MEMBERS, AND THE MEMBERS SHALL SERVE WITHOUT ADDITIONAL
COMPENSATION.

(4) THE COMMITTEE SHALL REVIEW THE RESPONSES OF YOUTH
COURT JUDGES RECEIVED PURSUANT TO SUBSECTION (1) AND SHALL
DESIGNATE A JUDICIAL DISTRICT DISTRICTS TO OPERATE THE A
LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM FROM AMONG THOSE
COURTS EXPRESSING AN INTEREST IN THE PROGRAM.

NEW SECTION. Section 3. Establishment of local
 citizen review board -- membership. (1) Subject to the
 availability of funds, the supreme-court YOUTH COURT JUDGE

1 OF THE A DISTRICT DESIGNATED PURSUANT TO [SECTION 2] TO
 2 OPERATE THE A PILOT PROGRAM shall establish a local citizen
 3 review board in each THE judicial district in-the--state to
 4 review the case of each child assigned to foster care by the
 5 youth court of each THE judicial district, as provided in
 6 Title 41, chapter 5.

7 (2) A local citizen review board is composed of at
 8 least three and not more than five members appointed by the
 9 ~~chief-justice-of-the-supreme-court~~ YOUTH COURT JUDGE OF THE
 10 A JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2]. Each
 11 member appointed must be sworn in by a judge of the judicial
 12 district to which the member is appointed to serve.

13 (3) The ~~chief-justice-of-the-supreme-court~~ YOUTH COURT
 14 JUDGE OF THE A JUDICIAL DISTRICT DESIGNATED PURSUANT TO
 15 [SECTION 2] shall appoint THE local citizen review boards
 16 BOARD according to the following guidelines:

17 (a) Members of a local citizen review board must be
 18 recruited from groups with special knowledge of or interest
 19 in foster care and child welfare, which may include but is
 20 not limited to adoptive parents and members of the
 21 professions of law, medicine, psychology, social work, and
 22 education.

23 (b) As far as practicable, members of a local citizen
 24 review board shall represent the various socioeconomic and
 25 ethnic groups of the area served.

1 (c) A person employed by the department of family
 2 services, by a private agency regulated, certified,
 3 directed, or licensed by or contracting with the department
 4 of family services, or by a youth court may not serve on a
 5 local citizen review board.

6 ~~(d) The appointment of a member of a local citizen~~
 7 ~~review board may be made only from a list approved by the~~
 8 ~~presiding judge of the youth court to which the member is~~
 9 ~~appointed to serve.~~

10 ~~(e)~~ (D) A member of a local citizen review board must be
 11 a resident of one of the counties of the judicial district
 12 that the member is appointed to serve.

13 (4) THE MEMBERS OF A LOCAL CITIZEN REVIEW BOARD MUST BE
 14 WILLING TO SERVE WITHOUT COMPENSATION.

15 NEW SECTION. Section 4. Administration -- training --
 16 procedures. (1) Subject to the availability of funds, the
 17 ~~office of the supreme court administrator, in accordance~~
 18 ~~with the direction of the supreme court,~~ YOUTH COURT OF THE
 19 A JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2]
 20 shall:

21 (a) establish and approve policies and procedures THAT
 22 HAVE THE FORCE OF LAW for the operation of THE local citizen
 23 review boards BOARD;

24 (b) approve and provide training programs for local
 25 citizen review board members;

(c) provide consultation services on request to THE local citizen review boards BOARD; and

(d) employ staff and provide for support services for the local citizen review boards BOARD.

(2) ~~The office-of-the-supreme-court-administrator-shall provide, in accordance with the direction of the supreme court,~~ YOUTH COURT OF THE A JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2] SHALL, AT THE TIME PRESCRIBED BY 5-11-210, PREPARE a biennial report to the governor, the legislature, and the public regarding:

(a) state laws, policies, and practices affecting permanence and appropriate care for children in the custody of the department of family services and other agencies; and

(b) the effectiveness of THE local citizen review boards BOARD in bringing about permanence and appropriate care for children in the custody of the department of family services and other agencies.

(3) ~~The supreme--court~~ YOUTH COURT OF THE A JUDICIAL DISTRICT DESIGNATED PURSUANT TO [SECTION 2] shall adopt procedures THAT HAVE THE FORCE OF LAW for the administration of the local citizen review board PILOT program regarding:

(a) the removal of members of THE local citizen review boards BOARD;

(b) the time, content, and manner in which case plans for and case progress reports on a child assigned to foster

care must be provided to the local citizen review board by the department of family services, other agencies, or individuals directly responsible for the care of the child;

(c) the provision of written notice of the review to the department of family services, any other agency directly responsible for the care or placement of a child, the parents or their attorneys, foster parents, surrogate parents, mature children or their attorneys, a court-appointed attorney or special advocate of any child, any county attorney or attorney general actively involved in the case, and other interested persons. The notice must include a statement that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(d) securing or excusing the presence at the review of caseworkers and other employees of the department of family services or other agencies directly responsible for the care of the child; and

(e) the manner in which THE local citizen review boards BOARD may remove cases from review when review is not required under federal law.

NEW SECTION. Section 5. Removal of members -- grounds.
Grounds for removal of a member of a local citizen review board under [section 3+3+ 4(3)] may include but are not limited to the following:

1 (1) nonparticipation by a local citizen review board
2 member;

3 (2) a member establishing residence in a judicial
4 district other than the judicial district in which the court
5 the person was appointed to serve is located;

6 (3) violation of the confidentiality of information
7 established under [section 6 7]; or

8 (4) other cause or grounds as necessary for the
9 administration of the program.

10 **NEW SECTION. Section 6. Terms -- officers -- meetings.**

11 (1) A local citizen review board member shall serve at the
12 pleasure of the appointing authority. However, if not
13 otherwise released from service on a local citizen review
14 board, the following provisions apply:

15 (a) A member shall serve a term of 2 years, except that
16 if a vacancy occurs, a successor must be appointed to serve
17 the unexpired term.

18 (b) A member may be reappointed and continue to serve
19 until a successor is appointed.

20 (2) Each ~~THE~~ A local citizen review board shall:

21 (a) elect annually from its membership a presiding
22 officer and vice presiding officer to serve in the absence
23 of the presiding officer; and

24 (b) meet at the nearest department of family services
25 office or another place mutually agreed to by a majority of

1 the local citizen review board as often as it considers
2 necessary to carry out the duties of the board.

3 **NEW SECTION. Section 7. Confidentiality of information**

4 -- penalty. (1) Before beginning to serve on a local citizen
5 review board, each member shall swear or affirm to the court
6 that the member will keep confidential the information
7 reviewed by the board and its actions and recommendations in
8 individual cases.

9 (2) A member of a local citizen review board who
10 violates the duty imposed by subsection (1) is guilty of a
11 misdemeanor punishable by a fine not to exceed \$1,000.

12 **NEW SECTION. Section 8. Access to records. (1)**

13 Notwithstanding the provisions of 41-3-205, a local citizen
14 review board has access to:

15 (a) any records of the youth court that are pertinent
16 to the case; and

17 (b) any records of the department of family services or
18 other agencies that would be admissible in a dispositional
19 review hearing conducted pursuant to 41-3-406, including
20 school records and reports of private service providers
21 contained in the records of the department of family
22 services or other agencies.

23 (2) All requested records not already before the local
24 citizen review board must be submitted by the department of
25 family services within 5 working days after receipt of a

request. A local citizen review board and any staff provided for the board shall return all records and copies received from the department of family services to the department within 7 working days after completion of the review.

(3) A local citizen review board may retain a reference copy of case material used by the board to make its recommendation if:

(a) the material is necessary for the ongoing work of the local citizen review board with regard to the particular case or to work of the board; and

(b) the confidentiality of the material is continued and protected in the same manner as other material received from the department of family services. Material retained by the local citizen review boards is not subject to disclosure under the public records law.

(4) If a local citizen review board is denied access to requested records, it may request a hearing. The court may require the organization in possession of the records to show cause why the records should not be made available as provided by this section.

NEW SECTION. Section 9. Assignment of cases for review. Within 10 days of entry of the order of disposition or within 30 days of placement, whichever comes first, the youth court shall assign the case of each child in foster care to a local citizen review board and forward to the

board a copy of the petition and the order of disposition for each child who is within the jurisdiction of the youth court and who has been placed in foster care.

NEW SECTION. Section 10. Review -- scope -- procedures -- immunity. (1) Except for cases removed from review under procedures established under [section 3 4], the local citizen review board shall review the case of each child in foster care that is assigned by the youth court.

(2) The review must take place at times set by the local citizen review board. The first review may not be more than 6 months after the child is placed in foster care. Subsequent reviews must take place at least once every 6 months until the child is no longer within the jurisdiction of the youth court or no longer in foster care.

(3) The youth court, by rule of the court or on an individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(4) The local citizen review board shall review any case in which a petition to terminate parental rights has been denied as soon as practical but no later than 45 days after the denial.

(5) After reviewing each case, the local citizen review board shall prepare written findings and recommendations

1 with respect to:

2 (a) whether reasonable efforts were made prior to the
3 placement to prevent or to eliminate the need for removal of
4 the child from the home and to make it possible for the
5 child to be returned home;

6 (b) the continuing need for and appropriateness of the
7 placement;

8 (c) compliance with the case plan;

9 (d) the progress that has been made toward alleviating
10 the need for placement;

11 (e) a likely date by which the child may be returned
12 home or placed for adoption;

13 (f) other problems, solutions, or alternatives that the
14 local citizen review board determines should be explored;
15 and

16 (g) whether the youth court should appoint an attorney
17 or other person as special advocate to represent or appear
18 on behalf of the child pursuant to 41-3-303.

19 (6) Whenever a member of a local citizen review board
20 has a potential conflict of interest in a case being
21 reviewed, the member shall declare to the board the nature
22 of the potential conflict prior to participating in the case
23 review. The following provisions apply:

24 (a) The declaration of the member must be recorded in
25 the official records of the local citizen review board.

1 (b) If, in the judgment of the majority of the local
2 citizen review board, the potential conflict of interest may
3 prevent the member from fairly and objectively reviewing the
4 case, the board may remove the member from participation in
5 the review.

6 (7) The local citizen review board shall keep accurate
7 records and retain the records on file. The local citizen
8 review board shall send copies of its written findings and
9 recommendations to the youth court, the department of family
10 services, and other participants in the review.

11 (8) The local citizen review board may hold joint or
12 separate reviews for groups of siblings.

13 (9) The local citizen review board may disclose to
14 parents and their attorneys, foster parents, mature children
15 and their attorneys, and other persons authorized by the
16 board to participate in the case review the records
17 disclosed to the board pursuant to [section 7 8]. Before
18 participating in a local citizen review board case review,
19 each participant, other than parents and children, shall
20 swear or affirm to the board that the participant will keep
21 confidential the information disclosed by the board in the
22 case review and will disclose it only as authorized by law.

23 NEW SECTION. Section 11. Recommendations by board. In
24 addition to reviewing individual cases of children in foster
25 care, ~~THE~~ A local citizen review boards BOARD may make

1 recommendations to the youth court and to the department of
2 family services concerning foster care services, policies,
3 procedures, and laws.

4 NEW SECTION. Section 12. Presence of certain employees
5 at meetings of board. (1) Unless excused from doing so by
6 the local citizen review board, the department of family
7 services and any other agency directly responsible for the
8 care and placement of the child shall require the presence
9 of any employees having knowledge of the case at board
10 meetings.

11 (2) The local citizen review board may require the
12 presence of specific employees of the department of family
13 services or any other agency OR OTHER PERSONS at board
14 meetings. If an employee fails to be present at the meeting,
15 the local citizen review board may request a court order.
16 The court may require the employee to be present and show
17 cause why the employee should not be compelled to appear
18 before the local citizen review board.

19 (3) As used in this section, "presence" includes
20 telephone participation, except that the caseworker on the
21 case at the time of the meeting must be physically present
22 if required.

23 NEW SECTION. Section 13. Court review of findings and
24 recommendations of board. (1) Upon receipt of findings and
25 recommendations from the local citizen review board, the

1 youth court shall:

2 (a) review the findings and recommendations of the
3 local citizen review board within 10 days. If the youth
4 court finds it appropriate, the youth court may on its own
5 motion schedule a review hearing.

6 (b) cause the findings and recommendations of the local
7 citizen review board to become part of the youth court file;
8 and

9 (c) give the local citizen review board written notice
10 if the youth court modifies, alters, or takes action on a
11 case as a result of the board's recommendations OR REFUSES
12 TO TAKE ACTION ON THE BOARD'S RECOMMENDATIONS IN ANY CASE.

13 (2) Upon receipt of findings and recommendations from
14 the local citizen review board, the department of family
15 services shall:

16 (a) review the findings and recommendations of the
17 local citizen review board within 10 days. The
18 recommendations must be implemented and the case plan
19 modified as the department of family services considers
20 appropriate and as resources permit.

21 (b) give the local citizen review board written notice
22 as soon as practicable, but in no case later than 7 days
23 after the review is completed, if the department of family
24 services does not intend to implement the recommendations;
25 and

(c) include the findings and recommendations of the local citizen review board as part of the case file of the department of family services.

(3) Upon its own motion or upon the request of the department of family services, the local citizen review board, or any interested party, the youth court may appoint an attorney or other person as special advocate to represent or appear on behalf of the child. Subject to the direction of the youth court, the court-appointed special advocate shall:

(a) investigate all relevant information about the case;

(b) advocate for the child, ensuring that all relevant facts are brought before the court;

(c) facilitate and negotiate to ensure that the youth court, the department of family services, and the child's attorney fulfill their obligations to the child in a timely fashion; and

(d) monitor all youth court orders to ensure compliance and to bring to the youth court's attention any change in circumstance that may require modification of the youth court's order.

NEW SECTION. Section 14. Dispositional review hearing by youth court. (1) The youth court shall conduct a dispositional review hearing within 18 months after the

original placement and conduct a review hearing periodically during the continuation of foster care. Unless good cause otherwise is shown, the youth court shall conduct a dispositional review hearing at any time upon the request of the department of family services, an agency directly responsible for care or placement of the child, a parent whose parental rights have not been terminated, an attorney for the child, a court-appointed special advocate, or a local citizen review board. The youth court shall schedule the hearing as soon as possible after receiving a request.

(2) The court may order that the child or any other person be present during the hearing.

(3) The court shall notify the parties listed in subsection (1) and any other interested parties of the hearing. The notice must state the time and place of the hearing. Upon request of the youth court, the department of family services or other legal custodian of the child shall provide the youth court with information concerning the whereabouts and identity of the parties.

(4) The youth court shall enter an order within 20 days after the review hearing. If the child is in foster care, the order must include a determination of:

(a) whether the child should be returned to the parent;

(b) whether the child should be placed for adoption;

(c) whether the child should continue in foster care

1 for a specified period; or

2 (d) whether, because of special needs or circumstances,
3 the child should be placed in the permanent custody or
4 guardianship of a responsible relative or other individual
5 or should continue in foster care on a permanent or
6 long-term basis.

7 (5) If the court determines that the child must be
8 placed or must continue in foster care or must be placed in
9 the custody or guardianship of a responsible relative or
10 other individual, the youth court shall enter written
11 findings specifying why placement with parents or adoption
12 is not appropriate. If the current placement is not expected
13 to be permanent, the youth court shall specify a projected
14 timetable for return of the child to the child's home or for
15 permanent placement. If the timetable set forth by the youth
16 court is not met, the department of family services shall
17 promptly notify the youth court and the parties.

18 (6) In the course of the dispositional review hearing,
19 the youth court may determine the adequacy of and compliance
20 with the case plan and case progress report. In addition to
21 other orders, the youth court may:

22 (a) order the department of family services to develop
23 or to expand a case plan or case progress report that must
24 be submitted within 10 days after the hearing;

25 (b) set a court hearing at a specific later time;

1 (c) direct the local citizen review board to review the
2 status of the child prior to its next review, as provided in
3 [section 9 10];

4 (d) order the department of family services or other
5 agency directly responsible for the child to modify the
6 care, placement, or supervision of the child; and

7 (e) determine whether the department of family services
8 or other agency directly responsible for the child has made
9 reasonable efforts to reunify the family.

10 (7) The dispositional review hearing must be conducted
11 in the manner provided in 41-3-406.

12 (8) Any decision of the youth court made pursuant to
13 the dispositional review hearing is a final order for the
14 purposes of 41-3-406.

15 **Section 15.** Section 41-3-205, MCA, is amended to read:

16 "41-3-205. Confidentiality -- disclosure exceptions.

17 (1) The case records of the department of social and
18 rehabilitation services, the department of family services
19 and its local affiliate, the county welfare department, the
20 county attorney, and the court concerning actions taken
21 under this chapter and all records concerning reports of
22 child abuse and neglect ~~shall~~ must be kept confidential
23 except as provided by this section. Any person who permits
24 or encourages the unauthorized dissemination of their
25 contents is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds such disclosure to be necessary for the fair resolution of an issue before it.

(3) Records may also be disclosed to the following persons or entities in this state or any other state:

(a) a department, agency, or organization, including federal agencies, legally authorized to receive, inspect, or investigate reports of child abuse or neglect;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records;

(c) a licensed health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or his the child's guardian ad litem;

(f) the members of an interdisciplinary child

protective team authorized under 41-3-108 for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(g) a department or agency investigating an applicant for a license to operate a youth care facility, day-care facility, or child-placing agency if the investigation is based on a substantiated report and the applicant is notified of the investigation;

(h) an employee of the department if disclosure of the records is necessary for administration of programs designed to benefit the child;

(i) an agency of an Indian tribe or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(j) a youth probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(k) a county attorney or peace officer if disclosure is necessary for the investigation or prosecution of a case involving child abuse or neglect;

(l) ~~a foster care review committee established under 41-3-1115~~ a FOSTER CARE REVIEW COMMITTEE ESTABLISHED UNDER 41-3-1115 OR, WHEN APPLICABLE, THE A local citizen review board established under [sections 1 through 14];

(m) a school employee participating in an interview of

1 a child by a social worker, county attorney, or peace
2 officer as provided in 41-3-202;

3 (n) a member of a county interdisciplinary child
4 information team formed under 52-2-211 who is not listed in
5 subsection (3); or

6 (o) members of a local interagency staffing group
7 provided for in 52-2-203.

8 (4) A person who is authorized to receive records under
9 this section shall maintain the confidentiality of the
10 records and may not disclose information in the records to
11 anyone other than the persons described in subsection
12 (3)(a).

13 (5) Nothing in this section is intended to affect the
14 confidentiality of criminal court records or records of law
15 enforcement agencies."

16 **SECTION 16. SECTION 41-3-1115, MCA, IS AMENDED TO READ:**

17 "41-3-1115. Foster care review committee. (1) In Except
18 as provided in [sections 1 through 14], in every judicial
19 district the youth court judge, in consultation with the
20 department, shall appoint a foster care review committee.
21 The members of the committee must be willing to act without
22 compensation. The committee shall be composed of not less
23 than five or more than seven members. The members shall
24 include:

25 (a) a representative of the department;

1 (b) a representative of the youth court;

2 (c) someone knowledgeable in the needs of children in
3 foster care placements who is not employed by the department
4 or the youth court;

5 (d) a representative of a local school district;

6 (e) if the child whose care under review is an Indian,
7 someone, preferably an Indian person, knowledgeable about
8 Indian cultural and family matters who is appointed
9 effective only for and during that review; and

10 (f) if there is one, the foster parent of the child
11 whose care is under review. The foster parent's appointment
12 is effective only for and during that review.

13 (2) When a child is in foster care under the
14 supervision of the department or if payment for care is made
15 pursuant to 41-3-1122, the committee shall conduct a review
16 of the foster care status of the child. The review must be
17 conducted within a time limit established by the department.
18 The time limit must comply with federal law and may not be
19 later than the 12-month anniversary date of the child's
20 placement into foster care.

21 (3) The department shall provide the committee with
22 guidelines for operation of the committee. Within 30 days of
23 the foster care review, the committee shall provide the
24 youth court and the department a written report of its
25 findings and recommendations for further action by the youth

1 court or the department.

2 (4) The department shall adopt rules necessary to carry
3 out the purposes of this section.

4 (5) Because of the individual privacy involved,
5 meetings of the committee, reports of the committee, and
6 information on individuals' cases shared by committee
7 members is confidential and subject to the confidentiality
8 requirements of the department.

9 (6) The committee is subject to the call of the youth
10 court judge to meet and confer with him the judge on all
11 matters pertaining to the foster care of a child before the
12 youth court."

13 **Section 17.** Section 41-3-1122, MCA, is amended to read:

14 "41-3-1122. Payment for support of youth in need of
15 care, youth in need of supervision, or delinquent youth --
16 reimbursement by county. (1) Whenever a youth who is a youth
17 in need of care, a youth in need of supervision, or a
18 delinquent youth is placed by the department of family
19 services in a youth care facility, the department shall pay,
20 within the limits of the appropriation for that purpose, a
21 foster care payment to the youth care facility at a rate
22 established by the department for board, clothing, personal
23 needs, treatment, and room of the youth.

24 (2) On or before the 20th of each month the department
25 shall present a claim to the county of residence of the

1 youth for no more than one-half of the nonfederal share of
2 the payments so made during the month. The county must make
3 reimbursement to the department within 20 days after the
4 claim is presented.

5 (3) Except as provided in subsection (4), when a
6 county's level of expenditure for any year reaches the level
7 of reimbursement for foster care in fiscal year 1987, the
8 county has no further obligation for foster care
9 expenditures.

10 (4) If a county's level of expenditure for foster care
11 in fiscal year 1987 is \$10,000 or less, the county's level
12 of expenditure for purposes of determining the county's
13 reimbursement specified in subsection (3) is the level of
14 expenditures for fiscal year 1987 or the average of
15 expenditures for fiscal years 1984 through 1987, whichever
16 is less.

17 (5) The department shall conduct or arrange for the
18 review required under ~~41-3-1115~~ 41-3-1115, OR WHEN
19 APPLICABLE, [section 9 10] of a youth placed in a youth care
20 facility if the youth is placed by the department."

21 ~~**Section 16.** Section 52-2-112, MCA, is amended to read:~~

22 ~~"52-2-112. Duty to strengthen child welfare services.~~
23 ~~The department shall make provision for establishing and~~
24 ~~strengthening child welfare services, including protective~~
25 ~~services, and for care of children in licensed family foster~~

homes,--child--care--agencies,--group--homes,--or--treatment
facilities,--Payment--provided--under--this--section--is--made
under--the--provisions--of--41-3-1122--and--41-3-1115.*

SECTION 17. SECTION 61-3-509, MCA, IS AMENDED TO READ:

*61-3-509.--Disposition-of-taxes.--(1)--Except--as--provided
in--subsection--(2),--the--county--treasurer--shall,--after
deducting--the--district--court--fee,--credit--all--taxes--on--motor
vehicles--and--fees--in--lieu--of--tax--on--motor--homes,--travel
trailers,--and--campers--collected--under--61-3-504,--61-3-521,
and--61-3-537--to--a--motor--vehicle--suspense--fund,--and--at--some
time--between--March--1--and--March--10--of--each--year--and--every--60
days--thereafter,--the--county--treasurer--shall--distribute--the
money--in--the--motor--vehicle--suspense--fund--in--the--relative
proportions--required--by--the--levies--for--state,--county,--school
district,--and--municipal--purposes--in--the--same--manner--as
personal--property--taxes--are--distributed.

(2)--The Subject--to--legislative--appropriations--to
implement--(sections--1--through--13),--the county--treasurer
shall--deduct--as--a--district--court--fee--7%--of--the--amount--of--the
2%--tax--collected--on--an--automobile--or--truck--having--a--rated
capacity--of--1--ton--or--less. The county treasurer shall credit
the fee for district courts to a separate--suspense--account
and--shall--forward--the--amount--in--the--account--to--the--state
treasurer--at--the--time--the--county--treasurer--distributes--the
motor--vehicle--suspense--fund. The state treasurer shall

credit--amounts--received--under--this--subsection--to--the--general
fund--to--be--used--for--purposes--of--state--funding--of--the
district--court--expenses--as--provided--in--3-5-901. Any amount
forwarded--to--the--state--treasurer--under--this--subsection--that
is--not--used--for--district--court--expenses--must--be--refunded--to
the--counties--in--the--proportion--that--the--amount--collected
from--each--county--bears--to--the--total--amount--collected.*

NEW SECTION. SECTION 18. CONTINGENCY PROVISION. (THIS
ACT) IS CONTINGENT UPON THE FOLLOWING APPROPRIATIONS BEING
INCLUDED IN HOUSE BILL NO. 2 OR ANOTHER APPROPRIATION BILL
PASSED AND APPROVED FOR THE 1995 BIENNIUM:

(1) THERE IS APPROPRIATED TO THE DEPARTMENT OF FAMILY
SERVICES \$737,592--IN--FISCAL--1994--AND--\$737,592--IN--FISCAL--1995
FROM--THE--GENERAL--FUND \$10,513 FROM THE GENERAL FUND FOR THE
BIENNIUM ENDING JUNE 30, 1995, FOR THE PURPOSES OF
IMPLEMENTING [THIS ACT]. THERE IS APPROPRIATED TO THE
MONTANA SUPREME COURT \$242,900--IN--FISCAL--1994--AND--\$242,900
IN--FISCAL--1995--FROM--THE--GENERAL--FUND YOUTH COURT OF THE
JUDICIAL DISTRICT DESIGNATED PURSUANT TO (SECTION 2) MONTANA
SUPREME COURT \$113,232 FROM THE GENERAL FUND FOR THE
BIENNIUM ENDING JUNE 30, 1995, FOR THE PURPOSES OF
IMPLEMENTING [THIS ACT].

(2)--THERE--IS--APPROPRIATED--TO--THE--MONTANA--SUPREME--COURT
\$325,305--IN--FISCAL--1994--AND--\$272,900--IN--FISCAL--1995--FROM--THE
GENERAL FUND COLLECTED PURSUANT TO 61-3-509(2) THAT ARE NOT

1 ~~APPROPRIATED FOR DISTRICT COURT EXPENSES, AS PROVIDED IN~~
2 ~~3-5-98.~~
3 ~~{3}(2) [THIS ACT] IS VOID IF SUBSECTIONS (1) AND (2)~~
4 ~~ARE SUBSECTION (1) IS NOT INCLUDED IN AN APPROPRIATION BILL~~
5 ~~FOR THE 1995 BIENNIUM THAT IS PASSED AND APPROVED.~~
6 ~~NEW SECTION. Section 19. Repealer. Section 41-3-1115.~~
7 ~~MCA is repealed.~~
8 ~~NEW SECTION. Section 19. Effective date. DATES. {This--~~
9 ~~act} {1} {SECTIONS 18 AND 20 AND THIS SECTION} ARE EFFECTIVE~~
10 ~~ON PASSAGE AND APPROVAL.~~
11 ~~{2} {SECTION 4} is effective July 1, 1993.~~
12 ~~{3} {SECTIONS 1 THROUGH 3 AND 5 THROUGH 17} ARE~~
13 ~~EFFECTIVE JANUARY 1, 1997.~~
14 ~~NEW SECTION. SECTION 20. TERMINATION. {THIS ACT}~~
15 ~~TERMINATES JULY 1, 1995.~~
16 ~~NEW SECTION. SECTION 19. EFFECTIVE DATE. [THIS ACT] IS~~
17 ~~EFFECTIVE JULY 1, 1993.~~

-End-