

SENATE BILL NO. 174

INTRODUCED BY

*Jacobson* *Coob*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF THE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM; PROVIDING THAT PROGRAM ADMINISTRATIVE PROCEDURES BE ADOPTED BY THE SUPREME COURT RATHER THAN THE YOUTH COURT; DESIGNATING THE DISTRICT COURT JUDGE RATHER THAN THE YOUTH COURT JUDGE AS THE ENTITY TO ADMINISTER THE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM; INCREASING THE TIME ALLOWED FOR THE DEPARTMENT OF FAMILY SERVICES TO RESPOND TO RECOMMENDATIONS OF THE LOCAL CITIZEN REVIEW BOARD; GRANTING JUDICIAL IMMUNITY TO VOLUNTEER MEMBERS OF THE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM; AMENDING SECTIONS 41-3-1002, 41-3-1003, 41-3-1004, 41-3-1008, 41-3-1009, 41-3-1010, 41-3-1011, 41-3-1013, AND 41-3-1014, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 41-3-1002, MCA, is amended to read:

**"41-3-1002. Establishment of pilot program.** (1) The office of the supreme court administrator shall solicit written indication of interest from each youth district court judge interested in having a local citizen review board established pursuant to this part within the jurisdiction of the youth district 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.

1 (4) The committee shall review the responses of ~~youth district~~ court judges received pursuant to  
2 subsection (1) and shall designate judicial districts to operate a local citizen review board pilot program from  
3 among those courts expressing an interest in the program."  
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5 **Section 2.** Section 41-3-1003, MCA, is amended to read:

6 **"41-3-1003. Establishment of local citizen review board -- membership.** (1) Subject to the  
7 availability of funds, the ~~youth district~~ court judge of a district designated pursuant to 41-3-1002 to operate  
8 a pilot program shall establish a local citizen review board in the judicial district to review the case of each  
9 child assigned to foster care by the ~~youth district~~ court ~~of the judicial district, as provided in Title 41,~~  
10 ~~chapter 5.~~

11 (2) A local citizen review board is composed of at least three and not more than five members  
12 appointed by the ~~youth district~~ court judge of a judicial district designated pursuant to 41-3-1002. Each  
13 member appointed must be sworn in by a judge of the judicial district to which the member is appointed  
14 to serve.

15 (3) The ~~youth district~~ court judge of a judicial district designated pursuant to 41-3-1002 shall  
16 appoint the local citizen review board according to the following guidelines:

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

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

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

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

27 (4) The members of a local citizen review board must be willing to serve without compensation."  
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29 **Section 3.** Section 41-3-1004, MCA, is amended to read:

30 **"41-3-1004. Administration -- training -- oversight -- procedures.** (1) Subject to the availability of

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- 2 (a) ~~establish and approve~~ policies and procedures ~~that have the force of law~~ for adoption by the
- 3 Montana supreme court pursuant to subsection (3) for the operation of the local citizen review board;
- 4 (b) ~~approve and~~ provide training programs for local citizen review board members;
- 5 (c) provide consultation services on request to the local citizen review board; and
- 6 (d) employ staff and provide for support services for the local citizen review board.
- 7 (2) The office of the supreme court administrator shall, in accordance with the direction of the
- 8 supreme court, oversee the program established in this part and, at the time prescribed by 5-11-210,
- 9 prepare a report to the governor, the legislature, and the public regarding:
- 10 (a) state laws, policies, and practices affecting permanence and appropriate care for children in the
- 11 custody of the department of family services and other agencies; and
- 12 (b) the effectiveness of the local citizen review board in bringing about permanence and appropriate
- 13 care for children in the custody of the department of family services and other agencies.
- 14 (3) The ~~youth court of a judicial district designated pursuant to 41-3-1002~~ Montana supreme court
- 15 shall adopt procedures that have the force of law for the administration of the local citizen review board
- 16 pilot program regarding:
- 17 (a) the removal of members of the local citizen review board;
- 18 (b) the time, content, and manner in which case plans for and case progress reports on a child
- 19 assigned to foster care must be provided to the local citizen review board by the department of family
- 20 services, other agencies, or individuals directly responsible for the care of the child;
- 21 (c) the provision of written notice of the review to the department of family services, any other
- 22 agency directly responsible for the care or placement of a child, the parents or their attorneys, foster
- 23 parents, surrogate parents, mature children or their attorneys, a court-appointed attorney or special
- 24 advocate of any child, any county attorney or attorney general actively involved in the case, and other
- 25 interested persons. The notice must include a statement that persons receiving a notice may participate in
- 26 the hearing and be accompanied by a representative.
- 27 (d) securing or excusing the presence at the review of caseworkers and other employees of the
- 28 department of family services or other agencies directly responsible for the care of the child; and
- 29 (e) the manner in which the local citizen review board may remove cases from review when review
- 30 is not required under federal law."

1           **Section 4.** Section 41-3-1008, MCA, is amended to read:

2           **"41-3-1008. Access to records.** (1) Notwithstanding the provisions of 41-3-205, a local citizen  
3 review board has access to:

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

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

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

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

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

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

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

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23           **Section 5.** Section 41-3-1009, MCA, is amended to read:

24           **"41-3-1009. Assignment of cases for review.** Within 10 days of entry of the order of disposition  
25 or within 30 days of placement, whichever comes first, the youth district court shall assign the case of  
26 each child in foster care to a local citizen review board and forward to the board a copy of the petition and  
27 the order of disposition for each child who is within the jurisdiction of the youth district court and who has  
28 been placed in foster care."

29

30           **Section 6.** Section 41-3-1010, MCA, is amended to read:

1           **"41-3-1010. Review -- scope -- procedures -- immunity.** (1) Except for cases removed from review  
2 under procedures established under 41-3-1004, the local citizen review board shall review the case of each  
3 child in foster care that is assigned by the ~~youth~~ youth district court.

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

8           (3) The ~~youth~~ youth district court, by rule of the court or on an individual case basis, may relieve the local  
9 citizen review board of its responsibility to review a case if a complete judicial review has taken place within  
10 60 days prior to the next scheduled board review.

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

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

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

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

18           (c) compliance with the case plan;

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

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

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

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

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

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

30           (b) If, in the judgment of the majority of the local citizen review board, the potential conflict of

1 interest may prevent the member from fairly and objectively reviewing the case, the board may remove the  
2 member from participation in the review.

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

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

7 (9) The local citizen review board may disclose to parents and their attorneys, foster parents,  
8 mature children and their attorneys, and other persons authorized by the board to participate in the case  
9 review the records disclosed to the board pursuant to 41-3-1008. Before participating in a local citizen  
10 review board case review, each participant, other than parents and children, shall swear or affirm to the  
11 board that the participant will keep confidential the information disclosed by the board in the case review  
12 and will disclose it only as authorized by law.

13 (10) A person who serves on a local citizen review board in a volunteer capacity, as provided in this  
14 part, is considered an agent of the judiciary and is entitled to immunity from suit as provided in 2-9-112."  
15

16 **Section 7.** Section 41-3-1011, MCA, is amended to read:

17 **"41-3-1011. Recommendations by board.** In addition to reviewing individual cases of children in  
18 foster care, a local citizen review board may make recommendations to the youth district court and to the  
19 department of family services concerning foster care services, policies, procedures, and laws."  
20

21 **Section 8.** Section 41-3-1013, MCA, is amended to read:

22 **"41-3-1013. Court review of findings and recommendations of board.** (1) Upon receipt of findings  
23 and recommendations from the local citizen review board, the youth district court shall:

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

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

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

1 recommendations in any case.

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

4 (a) review the findings and recommendations of the local citizen review board within 10 days. The  
5 recommendations must be implemented and the case plan modified as the department of family services  
6 considers appropriate and as resources permit.

7 (b) give the local citizen review board written notice as soon as practicable, but in no case later  
8 than ~~7~~ 17 days after ~~the review is completed~~ receipt of the findings and recommendations, if of the action  
9 the department of family services ~~does not intend~~ intends to take to implement the recommendations; and

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

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

16 (a) investigate all relevant information about the case;

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

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

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

23

24 **Section 9.** Section 41-3-1014, MCA, is amended to read:

25 **"41-3-1014. Dispositional review hearing by ~~youth~~ youth district court.** (1) The ~~youth~~ youth district court shall  
26 conduct a dispositional review hearing within 18 months after the original placement and conduct a review  
27 hearing periodically during the continuation of foster care. Unless good cause otherwise is shown, the ~~youth~~  
28 district court shall conduct a dispositional review hearing at any time upon the request of the department  
29 of family services, an agency directly responsible for care or placement of the child, a parent whose  
30 parental rights have not been terminated, an attorney for the child, a court-appointed special advocate, or

1 a local citizen review board. The youth district court shall schedule the hearing as soon as possible after  
2 receiving a request.

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

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

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

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

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

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

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

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

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

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

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

29 (c) direct the local citizen review board to review the status of the child prior to its next review,  
30 as provided in 41-3-1010;



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

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

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

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

8

9 **NEW SECTION. Section 10. Effective date.** [This act] is effective July 1, 1995.

10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0174, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill revising certain provisions of the local citizen review board pilot program; providing that program administrative procedures be adopted by the Supreme Court rather than the youth court; designating the district court judge rather than the youth court judge as the entity to administer the local citizen review board pilot program; increasing the time allowed for the Department of Family Services to respond to recommendations of the local citizen review board.

ASSUMPTIONS:

1. Unless funding is provided for the operation of the local citizen review board pilot program in the 1997 biennium, the pilot program will not be operational after June 30, 1995. There is no funding proposal in the Governor's Executive Budget. Both the Office of Budget and Program Planning and the Office of the Legislative Fiscal Analyst agreed the appropriation was one time and not to be included in the base budget.
2. Based on assumption #1, there will be no fiscal impact to the Department of Family Services or the Supreme Court.
3. If funding is provided for the operation of the local citizen review board pilot program in the 1997 biennium, there may be some fiscal impact on the Department of Family Services. The fiscal impact is not subject to reasonable estimate and would be determined by the amount and purpose of funding provided to the local citizen review boards.

Dave Lewis 1-23-95  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

Judy Jacobson  
JUDY JACOBSON, PRIMARY SPONSOR      DATE

Fiscal Note for SB0174, as introduced

**SB 174**

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(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.

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17 (a) the removal of members of the local citizen review board;

18 (b) the time, content, and manner in which case plans for and case progress reports on a child  
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20 services, other agencies, or individuals directly responsible for the care of the child;

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

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

29 (e) the manner in which the local citizen review board may remove cases from review when review  
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20 The court may require the organization in possession of the records to show cause why the records should  
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24           **"41-3-1009. Assignment of cases for review.** Within 10 days of entry of the order of disposition  
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11           (4) The local citizen review board shall review any case in which a petition to terminate parental  
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13           (5) After reviewing each case, the local citizen review board shall prepare written findings and  
14 recommendations with respect to:

15           (a) whether reasonable efforts were made prior to the placement to prevent or to eliminate the need  
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17           (b) the continuing need for and appropriateness of the placement;

18           (c) compliance with the case plan;

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

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

21           (f) other problems, solutions, or alternatives that the local citizen review board determines should  
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23           (g) whether the ~~youth~~ youth district court should appoint an attorney or other person as special advocate  
24 to represent or appear on behalf of the child pursuant to 41-3-303.

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27 participating in the case review. The following provisions apply:

28           (a) The declaration of the member must be recorded in the official records of the local citizen  
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30           (b) If, in the judgment of the majority of the local citizen review board, the potential conflict of

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

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12 and will disclose it only as authorized by law.

13 (10) A person who serves on a local citizen review board in a volunteer capacity, as provided in this  
14 part, is considered an agent of the judiciary and is entitled to immunity from suit as provided in 2-9-112."

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16 **Section 7.** Section 41-3-1011, MCA, is amended to read:

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27 (b) cause the findings and recommendations of the local citizen review board to become part of  
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29 (c) give the local citizen review board written notice if the youth district court modifies, alters, or  
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3 department of family services shall:

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8 than ~~7~~ 17 days after ~~the review is completed~~ receipt of the findings and recommendations, if of the action  
9 the department of family services ~~does not intend~~ intends to take to implement the recommendations; and

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12 (3) Upon its own motion or upon the request of the department of family services, the local citizen  
13 review board, or any interested party, the youth district court may appoint an attorney or other person as  
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22 order."

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25 **"41-3-1014. Dispositional review hearing by youth district court.** (1) The youth district court shall  
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27 hearing periodically during the continuation of foster care. Unless good cause otherwise is shown, the youth  
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30 parental rights have not been terminated, an attorney for the child, a court-appointed special advocate, or

1 a local citizen review board. The youth district court shall schedule the hearing as soon as possible after  
2 receiving a request.

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

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

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

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

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

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

16 (5) If the court determines that the child must be placed or must continue in foster care or must  
17 be placed in the custody or guardianship of a responsible relative or other individual, the youth district court  
18 shall enter written findings specifying why placement with parents or adoption is not appropriate. If the  
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22 district court and the parties.

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

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

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

29 (c) direct the local citizen review board to review the status of the child prior to its next review,  
30 as provided in 41-3-1010;

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

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

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

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

8

9 **NEW SECTION. Section 10. Effective date.** [This act] is effective July 1, 1995.

10

-END-

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SENATE BILL NO. 174

INTRODUCED BY Jacobson Cobb

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF THE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM; PROVIDING THAT PROGRAM ADMINISTRATIVE PROCEDURES BE ADOPTED BY THE SUPREME COURT RATHER THAN THE YOUTH COURT; DESIGNATING THE DISTRICT COURT JUDGE RATHER THAN THE YOUTH COURT JUDGE AS THE ENTITY TO ADMINISTER THE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM; INCREASING THE TIME ALLOWED FOR THE DEPARTMENT OF FAMILY SERVICES TO RESPOND TO RECOMMENDATIONS OF THE LOCAL CITIZEN REVIEW BOARD; GRANTING JUDICIAL IMMUNITY TO VOLUNTEER MEMBERS OF THE LOCAL CITIZEN REVIEW BOARD PILOT PROGRAM; AMENDING SECTIONS 41-3-1002, 41-3-1003, 41-3-1004, 41-3-1008, 41-3-1009, 41-3-1010, 41-3-1011, 41-3-1013, AND 41-3-1014, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

## 1 SENATE BILL NO. 174

2 INTRODUCED BY JACOBSON, COBB

3  
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12 41-3-1010, 41-3-1011, 41-3-1013, AND 41-3-1014, MCA; AND PROVIDING AN EFFECTIVE DATE."  
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
15

16 **Section 1.** Section 41-3-1002, MCA, is amended to read:

17 **"41-3-1002. Establishment of pilot program.** (1) The office of the supreme court administrator shall  
18 solicit written indication of interest from each ~~youth~~ district court judge interested in having a local citizen  
19 review board established pursuant to this part within the jurisdiction of the ~~youth~~ district court.

20 (2) (a) There is a local citizen review board screening committee. The committee is composed of  
21 the following members:

22 (i) a member of the house of representatives, designated by the speaker of the house;

23 (ii) a member of the senate, designated by the president of the senate;

24 (iii) a representative of the Montana judges' association, designated by the association; and

25 (iv) a representative of the office of the supreme court administrator, designated by the chief justice  
26 of the supreme court.

27 (b) The members designated pursuant to subsections (2)(a)(i) and (2)(a)(ii) must be from different  
28 political parties.

29 (3) The committee shall meet at a time agreeable to its members, and the members shall serve  
30 without additional compensation.

1 (4) The committee shall review the responses of youth district court judges received pursuant to  
2 subsection (1) and shall designate judicial districts to operate a local citizen review board pilot program from  
3 among those courts expressing an interest in the program."  
4

5 **Section 2.** Section 41-3-1003, MCA, is amended to read:

6 **"41-3-1003. Establishment of local citizen review board -- membership.** (1) Subject to the  
7 availability of funds, the youth district court judge of a district designated pursuant to 41-3-1002 to operate  
8 a pilot program shall establish a local citizen review board in the judicial district to review the case of each  
9 child assigned to foster care by the youth district court ~~of the judicial district, as provided in Title 41,~~  
10 ~~chapter 5.~~

11 (2) A local citizen review board is composed of at least three and not more than five members  
12 appointed by the youth district court judge of a judicial district designated pursuant to 41-3-1002. Each  
13 member appointed must be sworn in by a judge of the judicial district to which the member is appointed  
14 to serve.

15 (3) The youth district court judge of a judicial district designated pursuant to 41-3-1002 shall  
16 appoint the local citizen review board according to the following guidelines:

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

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

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

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

27 (4) The members of a local citizen review board must be willing to serve without compensation."  
28

29 **Section 3.** Section 41-3-1004, MCA, is amended to read:

30 **"41-3-1004. Administration -- training -- oversight -- procedures.** (1) Subject to the availability of

1 funds, the ~~youth court of a judicial district designated pursuant to 41-3-1002~~ court administrator shall:

2 (a) ~~establish and approve~~ policies and procedures ~~that have the force of law~~ for adoption by the  
3 Montana supreme court pursuant to subsection (3) for the operation of the local citizen review board;

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

5 (c) provide consultation services on request to the local citizen review board; and

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

7 (2) The office of the supreme court administrator shall, in accordance with the direction of the  
8 supreme court, oversee the program established in this part and, at the time prescribed by 5-11-210,  
9 prepare a report to the governor, the legislature, and the public regarding:

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

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

14 (3) The ~~youth court of a judicial district designated pursuant to 41-3-1002~~ Montana supreme court  
15 shall adopt procedures that have the force of law for the administration of the local citizen review board  
16 pilot program regarding:

17 (a) the removal of members of the local citizen review board;

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

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

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

29 (e) the manner in which the local citizen review board may remove cases from review when review  
30 is not required under federal law."

1           **Section 4.** Section 41-3-1008, MCA, is amended to read:

2           **"41-3-1008. Access to records.** (1) Notwithstanding the provisions of 41-3-205, a local citizen  
3 review board has access to:

4           (a) any records of the ~~youth~~ youth district court that are pertinent to the case; and

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

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

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

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

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

19           (4) If a local citizen review board is denied access to requested records, it may request a hearing.  
20 The court may require the organization in possession of the records to show cause why the records should  
21 not be made available as provided by this section."  
22

23           **Section 5.** Section 41-3-1009, MCA, is amended to read:

24           **"41-3-1009. Assignment of cases for review.** Within 10 days of entry of the order of disposition  
25 or within 30 days of placement, whichever comes first, the ~~youth~~ youth district court shall assign the case of  
26 each child in foster care to a local citizen review board and forward to the board a copy of the petition and  
27 the order of disposition for each child who is within the jurisdiction of the ~~youth~~ youth district court and who has  
28 been placed in foster care."  
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4 the child has made reasonable efforts to reunify the family.

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

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

8

9 **NEW SECTION. Section 10. Effective date.** [This act] is effective July 1, 1995.

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