1   SENATE BILL NO. 466

2   INTRODUCED BY D. LENZ

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4   A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FACTORS THAT MUST BE CONSIDERED

5   WHEN DETERMINING THE BEST INTERESTS OF A CHILD."

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7   WHEREAS, children and minors are too often an afterthought in policymaking even though every

8   aspect of government policy impacts kids, from health care to transportation. The government has no way to

9   evaluate whether policies would be good or bad for children, and no unified standard to use for that evaluation;

10   and

11   WHEREAS, due to the age of children and minors and their dependency, maturity, and lack of

12   mechanisms to make the case for their own interests and needs, children depend on adults in society and

13   government to support their health and well-being; and

14   WHEREAS, without a clear mandate to consider their needs, children will continue to be disregarded in

15   policy decisions that impact their lives and well-being; and

16   WHEREAS, a "best interests of the child" standard is the priority of policymaking that creates a

17   benchmark through which all policies can be evaluated and would make positive outcomes for children.

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

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21   NEW SECTION. **Section 1.   Best interests of child -- factors to consider.** (1) In any circumstance

22   in which the best interests of a child must be determined, the following factors, to the extent they are present,

23   must be considered but are not exhaustive:

24   (a)   the physical and emotional safety of the child;

25   (b)   the temperament and developmental needs of the child;

26   (c)   the capacity and the disposition of the parents to understand and meet the needs of the child;

27   (d)   any relevant and material information obtained from the child, including the informed

28   preferences of the child;

1   (e)   the wishes of the child's parents as to custody;

2   (f)   the past and current interaction and relationship of the child with each parent, the child's

3   siblings, and any other person who may significantly affect the best interests of the child;

4   (g)   the importance of family integrity, the emotional ties, and relationships between the child and

5   the child's parents, siblings, family, household members, or other caregivers;

6   (h)   the willingness and ability of each parent to facilitate and encourage continuing parent-child

7   relationship between the child and the other parent as is appropriate, including compliance with any court

8   orders;

9   (i)   any manipulation by or coercive behavior of the parents in an effort to involve the child in the

10   parents' dispute;

11   (j)   the ability of each parent to be actively involved in the life of the child;

12   (k)   the child's adjustment to the child's home, school, and community environments;

13   (l)   the capacity of the parents to provide a stable home and adequate food, clothing, and medical

14   care may not be based solely on the socioeconomic status of a parent;

15   (m)   the mental and physical health of all individuals involved, except that a disability of a proposed

16   custodial parent or other party, in and of itself, may not be determinative of custody unless the proposed

17   custodial arrangement is not in the best interests of the child;

18   (n)   the child's cultural background;

19   (o)   the effect on the child exposed to an offense identified in 45-5-202, 45-5-206, 45-5-213, or 45-

20   5-215 against a partner or family member in the presence of the child by a predominant aggressor;

21   (p)   whether the child or a sibling of the child has been abused or neglected, as defined in 41-3-

22   102; and

23   (q)   whether the party satisfactorily completes participation in a parenting education program

24   established pursuant to a court directive.

25   (2)   A court is not required to assign any weight to any of the factors that it considers but shall

26   articulate the basis for its decision.

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28   NEW SECTION. **Section 2.   Codification instruction.** [Section 1] is intended to be codified as a new

1   part in Title 41, chapter 1, and the provisions of Title 41, chapter 1, apply to [section 1].

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