

SENATE BILL NO. 318

INTRODUCED BY D. LENZ, S. DEMAROIS, S. FYANT, J. SOOKTIS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CHILD CUSTODY LAWS; ESTABLISHING CHILD ABUSE AND DOMESTIC VIOLENCE TRAINING REQUIREMENTS FOR JUDGES, STANDING MASTERS, AND GUARDIANS AD LITEM IN CHILD CUSTODY PROCEEDINGS; PROVIDING FOR CONSIDERATION OF DOMESTIC VIOLENCE AND CHILD ABUSE IN CHILD CUSTODY PROCEEDINGS; REVISING THE RIGHTS OF CHILDREN IN CHILD CUSTODY PROCEEDINGS; PROVIDING DEFINITIONS; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 3-1-1501, 3-1-1502, 40-4-205, 40-4-212, 40-4-219, AND 40-4-227, MCA; AND PROVIDING EFFECTIVE DATES."

WHEREAS, as Montanans we see the streams, mountains, minerals, and land as our best resource, but it is the children of Montana that are our most valuable resource. Protecting our children is the most important thing we can do for our future; and

WHEREAS, as Montanans we declare the family unit as sacred and support and preserve the family as the single most powerful influence for ensuring the healthy social development and mental and physical well-being of Montana's children; and

WHEREAS, as Montanans we recognize that Montana children have a constitutional right to speak their truth and be respected as individual citizens with rights to safety, security, and freedom from domestic violence.

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

NEW SECTION. Section 1. Purpose. The purpose of [sections 1 and 2] is to:

- (1) increase the priority given to child safety in a child custody proceeding;
- (2) strengthen the ability of courts to:
 - (a) recognize and adjudicate domestic violence and child abuse allegations based on valid,

1 admissible evidence; and

2 (b) enter orders that protect and minimize the risk of harm to children; and

3 (3) ensure that professionals involved in child custody proceedings containing domestic violence
4 or child abuse allegations receive trauma-informed and culturally appropriate training on the dynamics, signs,
5 and impacts of domestic violence and child abuse, including child sexual abuse.

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7 **NEW SECTION. Section 2. Orientation course -- annual training.** (1) Under the supervision of the
8 supreme court, a course of study must be presented as soon as is practical following each general election.
9 Actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, and the costs of
10 registration and books and other materials must be paid to the elected or appointed judge or standing master
11 for attending the course by the ~~county in which the judge or standing master holds or will hold court and must~~
12 ~~be charged against that county~~ office of court administrator provided for in 3-1-701.

13 (2) There must be two mandatory annual training sessions supervised by the supreme court for all
14 elected and appointed judges or standing masters. One of the training sessions may be held in conjunction with
15 the Montana magistrates' association convention. Actual and necessary travel expenses, as defined and
16 provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials must be
17 paid to the elected or appointed judges or standing masters for attending the sessions by the ~~county in which~~
18 ~~the judge or standing master holds or will hold court and must be charged against that county~~ office of court
19 administrator provided for in 3-1-701.

20 (3) Each judge or standing master shall attend the training sessions provided for in subsection (2).
21 Failure to attend disqualifies the judge or standing master from office and creates a vacancy in the office.
22 However, the supreme court may excuse a judge or standing master from attendance because of illness, a
23 death in the family, or any other good cause.

24 (4) A judge or standing master presiding over child custody proceedings shall complete:

25 (a) not less than 20 hours of initial orientation training; and

26 (b) not less than 15 hours of ongoing training every 2 years.

27 (5) The training required under subsection (4):

28 (a) must focus solely on domestic and sexual violence and child abuse, including:

- 1 (i) child sexual abuse;
- 2 (ii) physical abuse;
- 3 (iii) emotional abuse;
- 4 (iv) coercive control;
- 5 (v) implicit and explicit bias, including biases relating to parents with disabilities;
- 6 (vi) trauma;
- 7 (vii) long-term and short-term impacts of domestic violence and child abuse on children; and
- 8 (viii) victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence;
- 9 (b) must be provided by:
- 10 (i) a professional with substantive experience in assisting survivors of domestic violence or child
- 11 abuse, including a victim service provider as defined in 34 U.S.C. 12291; and
- 12 (ii) if possible, a survivor of domestic violence or child physical or sexual abuse;
- 13 (c) must rely on evidence-based and peer-reviewed research by recognized experts in the types of
- 14 abuse described in subsection (5)(a);
- 15 (d) may not include theories, concepts, or belief systems unsupported by the research described in
- 16 subsection (5)(c); and
- 17 (e) must be designed to improve the ability of courts to:
- 18 (i) recognize and respond to child physical abuse, child sexual abuse, domestic violence, and
- 19 trauma in all family victims, particularly children; and
- 20 (ii) make appropriate custody recommendations that prioritize child safety and well-being and are
- 21 culturally sensitive and appropriate for diverse communities.

22

23 **Section 3.** Section 3-1-1501, MCA, is amended to read:

24 **"3-1-1501. Definitions.** As used in this part, the following definitions apply:

25 (1) (a) "Child custody proceeding" means a dissolution, separation, visitation, paternity, support,

26 custody, or civil protection order proceeding between the parents of a child involving the care or custody of the

27 child.

28 (b) The term does not include: