

**CD-ROM Draft Copy**

Last printed 7/31/2012 9:38:00 AM  
6108-01-003.docx

\*\*\* Bill No. \*\*\*

Introduced By \*\*\*\*\*

By Request of the Office of the State Public Defender

A Bill for an Act entitled: "An Act amending section 41-3-425, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 41-3-425, MCA, is amended to read:

**"41-3-425. Right to counsel.** (1) Any party involved in a petition filed pursuant to 41-3-422 has the right to counsel in all proceedings held pursuant to the petition.

(2) Except as provided in subsections (3) and (4), the court shall immediately appoint the office of the state public defender to assign counsel ~~or have counsel assigned for:~~

(a) any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to 41-3-422, pending determination of eligibility pursuant to 47-1-111;

(b) any child or youth involved in a proceeding under a petition filed pursuant to 41-3-422 when a guardian ad litem is not appointed for the child or youth; and

**CD-ROM Draft Copy**

Last printed 7/31/2012 9:38:00 AM  
6108-01-003.docx

(c) any party entitled to counsel at public expense under the federal Indian Child Welfare Act.

(3) When appropriate, the court may appoint ~~or have~~ counsel assigned the office of the state public defender to assign counsel for any child or youth involved in a proceeding under a petition filed pursuant to 41-3-422 when a guardian ad litem is appointed for the child or youth.

(4) When appropriate, the court may assign counsel, at the court's expense for

~~(a) a guardian ad litem or a court-appointed special advocate involved in a proceeding under a petition filed pursuant to 41-3-422;~~

~~(b) any child or youth involved in a proceeding under a petition filed pursuant to 41-3-422 when a guardian ad litem is appointed for the child or youth.~~

~~(4) The court's action pursuant to subsection (2) or (3) must be to order the office of state public defender, provided for in 47-1-201, to immediately assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, pending a determination of eligibility pursuant to 47-1-111."~~

{Internal References to 41-3-425:

41-3-422            41-3-422            41-3-422            41-3-423  
41-3-432            47-1-104            47-1-104 }

**CD-ROM Draft Copy**

Last printed 7/31/2012 9:38:00 AM  
6108-01-003.docx

-END-