

HOUSE BILL NO. 391

INTRODUCED BY DARKO, FRITZ, HALLIGAN, VAUGHN,
HANSEN, COCCHIARELLA, SCHYE, BROOKE, D. BROWN, RANEY

IN THE HOUSE

JANUARY 24, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 25, 1991 FIRST READING.

FEBRUARY 11, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 12, 1991 PRINTING REPORT.

FEBRUARY 13, 1991 SECOND READING, DO PASS.

FEBRUARY 14, 1991 ENGROSSING REPORT.

FEBRUARY 15, 1991 THIRD READING, PASSED.
AYES, 85; NOES, 12.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

MARCH 16, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 18, 1991 SECOND READING, CONCURRED IN.

MARCH 19, 1991 THIRD READING, CONCURRED IN.
AYES, 46; NOES, 2.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 19, 1991 RECEIVED FROM SENATE.

MARCH 23, 1991 SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 28, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 10, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 12, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 13, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 18, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *391*
 2 INTRODUCED BY *Marko Zitz, Hollyn Chugh*
 3 *Stella Jean Hansen, Cecelia Kulla, Lyle Prater, Dave Brown*
 4 *Raney*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE CLERGY IN
 6 THE LIST OF PERSONS REQUIRED TO REPORT SUSPECTED CHILD
 7 ABUSE; AND AMENDING SECTION 41-3-201, MCA."

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

9 **Section 1.** Section 41-3-201, MCA, is amended to read:

10 "41-3-201. Reports. (1) When the professionals and
 11 officials listed in subsection (2) know or have reasonable
 12 cause to suspect, as a result of information they receive in
 13 their professional or official capacity, that a child is
 14 abused or neglected, they shall report the matter promptly
 15 to the department of family services or its local affiliate,
 16 which then shall notify the county attorney of the county
 17 where the child resides.

18 (2) Professionals and officials required to report are:

19 (a) physician, resident, intern, or member of a
 20 hospital's staff engaged in the admission, examination,
 21 care, or treatment of persons;

22 (b) a nurse, osteopath, chiropractor, podiatrist,
 23 medical examiner, coroner, dentist, optometrist, or any
 24 other health or mental health professional;

25 (c) Christian Science practitioner and religious

1 healers;

2 (d) school teachers, other school officials, and
 3 employees who work during regular school hours;

4 (e) a social worker, operator or employee of any
 5 registered or licensed day-care or substitute care facility,
 6 or any other operator or employee of a child-care facility;

7 (f) foster care, residential, or institutional worker;

8 or

9 (g) a peace officer or other law enforcement official;

10 or

11 (h) clergy.

12 (3) Any person may make a report under this section if
 13 he knows or has reasonable cause to suspect that a child is
 14 abused or neglected.

15 (4) No A person listed in subsection (2) may not refuse
 16 to make a report as required in this section on the grounds
 17 of a physician-patient or similar privilege. Subsection
 18 (2)(h) is not intended to interfere with the practice of
 19 religion.

20 (5) The reports referred to under this section shall
 21 contain:

22 (a) the names and addresses of the child and his or her
 23 parents or other persons responsible for his or her care;

24 (b) to the extent known, the child's age, the nature
 25 and extent of the child's injuries, including any evidence

LC 1512/01

1 of previous injuries;

2 (c) any other information that the maker of the report
3 believes might be helpful in establishing the cause of the
4 injuries or showing the willful neglect and the identity of
5 person or persons responsible therefor; and

6 (d) the facts which led the person reporting to believe
7 that the child has suffered injury or injuries or willful
8 neglect, within the meaning of this chapter."

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 391

INTRODUCED BY DARKO, FRITZ, HALLIGAN, VAUGHN,

HANSEN, COCCHIARELLA, SCHYE, BROOKE, D. BROWN, RANEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE CLERGY IN
THE LIST OF PERSONS REQUIRED TO REPORT SUSPECTED CHILD
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Section 1. Section 41-3-201, MCA, is amended to read:

"41-3-201. **Reports.** (1) When the professionals and
officials listed in subsection (2) know or have reasonable
cause to suspect, as a result of information they receive in
their professional or official capacity, that a child is
abused or neglected, they shall report the matter promptly
to the department of family services or its local affiliate,
which then shall notify the county attorney of the county
where the child resides.

(2) Professionals and officials required to report are:

(a) physician, resident, intern, or member of a
hospital's staff engaged in the admission, examination,
care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist,
medical examiner, coroner, dentist, optometrist, or any
other health or mental health professional;

(c) Christian Science practitioner and religious
healers;

(d) school teachers, other school officials, and
employees who work during regular school hours;

(e) a social worker, operator or employee of any
registered or licensed day-care or substitute care facility,
or any other operator or employee of a child-care facility;

(f) foster care, residential, or institutional worker;

or

(g) a peace officer or other law enforcement official;

or

(h) clergy.

(3) Any person may make a report under this section if
he knows or has reasonable cause to suspect that a child is
abused or neglected.

(4) (A) No A EXCEPT AS PROVIDED IN SUBSECTION (4)(B), A
person listed in subsection (2) may not refuse to make a
report as required in this section on the grounds of a
physician-patient or similar privilege. Subsection-(2)(h)-is
not-intended-to-interfere-with-the-practice-of-religion.

(B) A CLERGYPERSON OR PRIEST IS NOT REQUIRED TO MAKE A
REPORT UNDER THIS SECTION IF:

(i) THE KNOWLEDGE OR SUSPICION OF THE ABUSE OR NEGLECT
CAME FROM A STATEMENT OR CONFESSION MADE TO THE CLERGYPERSON
OR PRIEST IN HIS SPIRITUAL PROFESSIONAL CAPACITY;

SECOND READING

1 (II) CANON LAW, CHURCH DOCTRINE, OR ESTABLISHED CHURCH
2 PRACTICE REQUIRES THE CLERGYPERSON OR PRIEST TO KEEP THE
3 STATEMENT OR CONFESSION CONFIDENTIAL; AND

4 (III) THE PERSON WHO MADE THE STATEMENT OR CONFESSION
5 DOES NOT CONSENT TO THE DISCLOSURE BY THE CLERGYPERSON OR
6 PRIEST.

7 (5) The reports referred to under this section shall
8 contain:

9 (a) the names and addresses of the child and his or her
10 parents or other persons responsible for his or her care;

11 (b) to the extent known, the child's age, the nature
12 and extent of the child's injuries, including any evidence
13 of previous injuries;

14 (c) any other information that the maker of the report
15 believes might be helpful in establishing the cause of the
16 injuries or showing the willful neglect and the identity of
17 person or persons responsible therefor; and

18 (d) the facts which led the person reporting to believe
19 that the child has suffered injury or injuries or willful
20 neglect, within the meaning of this chapter."

-End-

1 HOUSE BILL NO. 391

2 INTRODUCED BY DARKO, FRITZ, HALLIGAN, VAUGHN,

3 HANSEN, COCCHIARELLA, SCHYE, BROOKE, D. BROWN, RANEY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE CLERGY IN
6 THE LIST OF PERSONS REQUIRED TO REPORT SUSPECTED CHILD
7 ABUSE; AND AMENDING SECTION 41-3-201, MCA."8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 41-3-201, MCA, is amended to read:

11 "41-3-201. Reports. (1) When the professionals and
12 officials listed in subsection (2) know or have reasonable
13 cause to suspect, as a result of information they receive in
14 their professional or official capacity, that a child is
15 abused or neglected, they shall report the matter promptly
16 to the department of family services or its local affiliate,
17 which then shall notify the county attorney of the county
18 where the child resides.

19 (2) Professionals and officials required to report are:

20 (a) physician, resident, intern, or member of a
21 hospital's staff engaged in the admission, examination,
22 care, or treatment of persons;23 (b) a nurse, osteopath, chiropractor, podiatrist,
24 medical examiner, coroner, dentist, optometrist, or any
25 other health or mental health professional;1 (c) Christian Science practitioner and religious
2 healers;3 (d) school teachers, other school officials, and
4 employees who work during regular school hours;5 (e) a social worker, operator or employee of any
6 registered or licensed day-care or substitute care facility,
7 or any other operator or employee of a child-care facility;

8 (f) foster care, residential, or institutional worker;

9 or

10 (g) a peace officer or other law enforcement official;

11 or

12 (h) clergy.13 (3) Any person may make a report under this section if
14 he knows or has reasonable cause to suspect that a child is
15 abused or neglected.16 (4) (A) No A EXCEPT AS PROVIDED IN SUBSECTION (4)(B), A
17 person listed in subsection (2) may not refuse to make a
18 report as required in this section on the grounds of a
19 physician-patient or similar privilege. ~~Subsection-(2)(h)-is~~
20 ~~not-intended-to-interfere-with-the-practice-of-religion-~~21 (B) A CLERGYPERSON OR PRIEST IS NOT REQUIRED TO MAKE A
22 REPORT UNDER THIS SECTION IF:23 (I) THE KNOWLEDGE OR SUSPICION OF THE ABUSE OR NEGLECT
24 CAME FROM A STATEMENT OR CONFESSION MADE TO THE CLERGYPERSON
25 OR PRIEST IN HIS SPIRITUAL PROFESSIONAL CAPACITY;

THIRD READING

1 (II) CANON LAW, CHURCH DOCTRINE, OR ESTABLISHED CHURCH
2 PRACTICE REQUIRES THE CLERGYPERSON OR PRIEST TO KEEP THE
3 STATEMENT OR CONFESSION CONFIDENTIAL; AND

4 (III) THE PERSON WHO MADE THE STATEMENT OR CONFESSION
5 DOES NOT CONSENT TO THE DISCLOSURE BY THE CLERGYPERSON OR
6 PRIEST.

7 (5) The reports referred to under this section shall
8 contain:

9 (a) the names and addresses of the child and his or her
10 parents or other persons responsible for his or her care;

11 (b) to the extent known, the child's age, the nature
12 and extent of the child's injuries, including any evidence
13 of previous injuries;

14 (c) any other information that the maker of the report
15 believes might be helpful in establishing the cause of the
16 injuries or showing the willful neglect and the identity of
17 person or persons responsible therefor; and

18 (d) the facts which led the person reporting to believe
19 that the child has suffered injury or injuries or willful
20 neglect, within the meaning of this chapter."

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 16, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 391 (third reading copy -- blue), respectfully report that House Bill No. 391 be amended and as so amended be concurred in:

1. Page 2, line 16.

Following: "(B)"

Insert: "or (4)(c)"

2. Page 2, line 25.

Following: "HIS"

Strike: "SPIRITUAL PROFESSIONAL"

Following: "CAPACITY"

Insert: "as a clergyperson or priest"

3. Page 3, lines 1 through 3.

Following: "(II)" on line 1

Strike: remainder of line 1 through "CONFIDENTIAL" on line 3

Insert: "the statement was intended to be a part of a confidential communication between the clergyperson or priest and a member of his church or congregation"

4. Page 3, line 7.

Following: line 6

Insert: "(c) A clergyperson or priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice."

Signed: 

Richard Pinsoneault, Chairman

km 3-16-91
Ad. Coord.

SB 3/16 11:30
Sec. of Senate

H6 391

SENATE

HOUSE BILL NO. 391

INTRODUCED BY DARKO, FRITZ, HALLIGAN, VAUGHN,

HANSEN, COCCHIARELLA, SCHYE, BROOKE, D. BROWN, RANEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE CLERGY IN THE LIST OF PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE; AND AMENDING SECTION 41-3-201, MCA."

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

Section 1. Section 41-3-201, MCA, is amended to read:

"41-3-201. Reports. (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected, they shall report the matter promptly to the department of family services or its local affiliate, which then shall notify the county attorney of the county where the child resides.

(2) Professionals and officials required to report are:

(a) physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) Christian Science practitioner and religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, or any other operator or employee of a child-care facility;

(f) foster care, residential, or institutional worker;

or

(g) a peace officer or other law enforcement official;

or

(h) clergy.

(3) Any person may make a report under this section if he knows or has reasonable cause to suspect that a child is abused or neglected.

(4) (A) No A EXCEPT AS PROVIDED IN SUBSECTION (4)(B) OR (4)(C), A person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege. Subsection--(2)--(h) is not intended to interfere with the practice of religion.

(B) A CLERGYPERSON OR PRIEST IS NOT REQUIRED TO MAKE A REPORT UNDER THIS SECTION IF:

(1) THE KNOWLEDGE OR SUSPICION OF THE ABUSE OR NEGLECT CAME FROM A STATEMENT OR CONFESSION MADE TO THE CLERGYPERSON OR PRIEST IN HIS SPIRITUAL--PROFESSIONAL CAPACITY AS A



1 CLERGYPERSON OR PRIEST;

2 (II) CANON-LAW, CHURCH-DOCTRINE, OR ESTABLISHED-CHURCH
3 PRACTICE--REQUIRES--THE--CLERGYPERSON--OR--PRIEST--TO--KEEP--THE
4 STATEMENT--OR--CONFESSION--CONFIDENTIAL THE STATEMENT WAS
5 INTENDED TO BE A PART OF A CONFIDENTIAL COMMUNICATION
6 BETWEEN THE CLERGYPERSON OR PRIEST AND A MEMBER OF HIS
7 CHURCH OR CONGREGATION; AND

8 (III) THE PERSON WHO MADE THE STATEMENT OR CONFESSION
9 DOES NOT CONSENT TO THE DISCLOSURE BY THE CLERGYPERSON OR
10 PRIEST.

11 (C) A CLERGYPERSON OR PRIEST IS NOT REQUIRED TO MAKE A
12 REPORT UNDER THIS SECTION IF THE COMMUNICATION IS REQUIRED
13 TO BE CONFIDENTIAL BY CANON LAW, CHURCH DOCTRINE, OR
14 ESTABLISHED CHURCH PRACTICE.

15 (5) The reports referred to under this section shall
16 contain:

17 (a) the names and addresses of the child and his or her
18 parents or other persons responsible for his or her care;

19 (b) to the extent known, the child's age, the nature
20 and extent of the child's injuries, including any evidence
21 of previous injuries;

22 (c) any other information that the maker of the report
23 believes might be helpful in establishing the cause of the
24 injuries or showing the willful neglect and the identity of
25 person or persons responsible therefor; and

1 (d) the facts which led the person reporting to believe
2 that the child has suffered injury or injuries or willful
3 neglect, within the meaning of this chapter."

-End-

Free Conference Committee
on House Bill 391
Report No. 1, April 10, 1991

4/10/91
4:00 PM
BDA

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Free Conference Committee on House Bill 391 met and considered House Bill 391 (reference copy -- salmon) and recommend that the House accede to the Senate amendments.

And this Free Conference Committee report be adopted.

For the House:

For the Senate:

Paula Darko
Rep. Paula Darko, Chair

Thomas E. Towe
Sen. Tom Towe

Vivian Brooks
Rep. Vivian Brooks

Lorents Grosfield
Sen. Lorents Grosfield

Jim Rice
Rep. Jim Rice

Mike Halligan
Sen. Mike Halligan

ADOPT

REJECT

HB 391

761406CC.HSF



AN ACT TO INCLUDE CLERGY IN THE LIST OF PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE; AND AMENDING SECTION 41-3-201, MCA.

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(2) Professionals and officials required to report are:

(a) physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

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(f) foster care, residential, or institutional worker; or
 (g) a peace officer or other law enforcement official; or
 (h) clergy.

(3) Any person may make a report under this section if he knows or has reasonable cause to suspect that a child is abused or neglected.

(4) (a) No Except as provided in subsection (4)(b) or (4)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A clergyperson or priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the clergyperson or priest in his capacity as a clergyperson or priest;

(ii) the statement was intended to be a part of a confidential communication between the clergyperson or priest and a member of his church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the clergyperson or priest.

(c) A clergyperson or priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(5) The reports referred to under this section shall contain:

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(a) the names and addresses of the child and his or her parents or other persons responsible for his or her care;

(b) to the extent known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible therefor; and

(d) the facts which led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter."