

SENATE BILL NO. 205

INTRODUCED BY ECK, BROOKE

IN THE SENATE

JANUARY 26, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON PUBLIC HEALTH, WELFARE, & SAFETY.

 FIRST READING.

FEBRUARY 16, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 18, 1991 PRINTING REPORT.

 SECOND READING, DO PASS.

FEBRUARY 19, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 50; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

 FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 5, 1991 SECOND READING, CONCURRED IN.

APRIL 6, 1991 THIRD READING, CONCURRED IN.
AYES, 82; NOES, 12.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 6, 1991 RECEIVED FROM HOUSE.

APRIL 9, 1991 ON MOTION, CONSIDERATION PASSED
UNTIL THE 76TH LEGISLATIVE DAY.

APRIL 17, 1991 SECOND READING, AMENDMENTS

APRIL 18, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *205*
2 INTRODUCED BY *Eckhardt*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE STATE
5 AGENCIES TO ENTER INTO A COOPERATIVE AGREEMENT REGARDING THE
6 PROVISION OF CHILDREN'S SERVICES; TO SPECIFY THE
7 REQUIREMENTS FOR A COOPERATIVE AGREEMENT BETWEEN STATE
8 AGENCIES; TO REQUIRE ESTABLISHMENT OF LOCAL INTERAGENCY
9 STAFFING GROUPS; TO DESIGNATE THE DEPARTMENT OF FAMILY
10 SERVICES AS THE LEAD AGENCY IN COORDINATING AND PLANNING
11 SERVICES TO CHILDREN; AMENDING SECTIONS 41-3-107, 41-3-205,
12 AND 52-1-103, MCA; AND PROVIDING AN EFFECTIVE DATE."
13

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

15 NEW SECTION. Section 1. Purpose. It is the purpose of
16 [sections 1 through 3] to strengthen and improve children's
17 services in Montana by requiring interagency cooperation
18 regarding the provision of services to children.

19 NEW SECTION. Section 2. Definitions. For purposes of
20 [sections 1 through 3], unless the context requires
21 otherwise, the following definitions apply:

22 (1) "Children with multiagency service needs" means
23 children under 18 years of age who have a need for services
24 that are available from more than one state agency.

25 (2) "Services" means publicly funded social services

1 for children, including public education, child protective
2 services, mental health services, child health care, and
3 related services.

4 (3) "State agency" means:

5 (a) the department of family services provided for in
6 2-15-2401;

7 (b) the department of health and environmental sciences
8 provided for in 2-15-2101;

9 (c) the department of institutions provided for in
10 2-15-2301;

11 (d) the department of social and rehabilitation
12 services provided for in 2-15-2201; and

13 (e) the superintendent of public instruction provided
14 for in 2-15-701.

15 NEW SECTION. Section 3. Cooperative agreement
16 regarding children's services. (1) State agencies shall
17 enter into a cooperative agreement for the purpose of
18 coordinating services to children with multiagency service
19 needs.

20 (2) The cooperative agreement must:

21 (a) include a functional definition of "children with
22 multiagency service needs";

23 (b) identify the responsibilities of each state agency
24 in relation to children with multiagency service needs;

25 (c) describe agreements to eliminate duplicated



1 services and to fill gaps in services to children with
2 multiagency service needs;

3 (d) provide for interagency sharing of equipment,
4 office space, and other agency resources as may be necessary
5 for the efficient administration of multiagency services;

6 (e) define a process for the resolution of disputes
7 between state agencies that relate to specific areas of an
8 agency's service responsibilities;

9 (f) establish local interagency staffing groups that
10 consist of the following members:

11 (i) a local representative from each state agency who
12 is authorized to commit resources and make decisions on
13 behalf of the agency he represents; and

14 (ii) representatives of local private youth service
15 agencies;

16 (g) provide that if a state agency is not able to
17 provide all the services that a child requires, the agency
18 may submit the child's case history to the local staffing
19 group for the provision of multiagency services to the
20 child;

21 (h) provide that a local interagency staffing group
22 shall meet at the request of any one of its members to
23 consider the provision of services to a child with
24 multiagency service needs;

25 (i) provide for confidentiality of a child's case

1 records in the same manner as provided in 41-3-205; and

2 (j) provide for review and necessary revision of the
3 cooperative agreement at least once annually.

4 (3) For purposes of [sections 1 through 3], the
5 department of family services is designated as the lead
6 agency in coordinating and planning services to children
7 with multiagency service needs. Other state agencies shall
8 cooperate with the department of family services to assure
9 minimum duplication and maximum coordination of services for
10 children in Montana.

11 **Section 4.** Section 41-3-107, MCA, is amended to read:

12 "41-3-107. Interagency cooperation. (1) To effectuate
13 the purposes of this chapter, the department of family
14 services shall cooperate with and shall seek the cooperation
15 and involvement of all appropriate public and private
16 agencies, including health, education, social services, and
17 law enforcement agencies; juvenile courts; and any other
18 agency, organization, or program providing or concerned with
19 human services related to the prevention, identification, or
20 treatment of child abuse or neglect. Such cooperation and
21 involvement may not include joint case management but may
22 include joint policy planning, public education, information
23 services, staff development, and other training.

24 (2) The department shall enter into a cooperative
25 agreement with other state agencies, as provided in [section

1 3], for the purpose of implementing this section."

2 **Section 5.** Section 41-3-205, MCA, is amended to read:

3 ***41-3-205. Confidentiality -- disclosure exceptions.**

4 (1) The case records of the department of social and
5 rehabilitation services, the department of family services
6 and its local affiliate, the county welfare department, the
7 county attorney, and the court concerning actions taken
8 under this chapter and all records concerning reports of
9 child abuse and neglect shall be kept confidential except as
10 provided by this section. Any person who permits or
11 encourages the unauthorized dissemination of their contents
12 is guilty of a misdemeanor.

13 (2) Records may be disclosed to a court for in camera
14 inspection if relevant to an issue before it. The court may
15 permit public disclosure if it finds such disclosure to be
16 necessary for the fair resolution of an issue before it.

17 (3) Records may also be disclosed to the following
18 persons or entities in this state or any other state:

19 (a) a department, agency, or organization, including
20 federal agencies, legally authorized to receive, inspect, or
21 investigate reports of child abuse or neglect;

22 (b) a licensed youth care facility or a licensed
23 child-placing agency that is providing services to the
24 family or child who is the subject of a report in the
25 records;

1 (c) a licensed health or mental health professional who
2 is treating the family or child who is the subject of a
3 report in the records;

4 (d) a parent or guardian of the child who is the
5 subject of a report in the records or other person
6 responsible for the child's welfare, without disclosure of
7 the identity of any person who reported or provided
8 information on the alleged child abuse or neglect incident
9 contained in the records;

10 (e) a child named in the records who was allegedly
11 abused or neglected or his guardian ad litem;

12 (f) the members of an interdisciplinary child
13 protective team authorized under 41-3-108 for the purposes
14 of assessing the needs of the child and family, formulating
15 a treatment plan, and monitoring the plan;

16 (g) a department or agency investigating an applicant
17 for a license to operate a youth care facility, day-care
18 facility, or child-placing agency if the investigation is
19 based on a substantiated report and the applicant is
20 notified of the investigation;

21 (h) an employee of the department if disclosure of the
22 records is necessary for administration of programs designed
23 to benefit the child;

24 (i) an agency of an Indian tribe or the relatives of an
25 Indian child if disclosure of the records is necessary to

1 meet requirements of the federal Indian Child Welfare Act;

2 (j) a youth probation officer who is working in an

3 official capacity with the child who is the subject of a

4 report in the records;

5 (k) a county attorney or peace officer if disclosure is

6 necessary for the investigation or prosecution of a case

7 involving child abuse or neglect;

8 (l) a foster care review committee established under

9 41-3-1115; or

10 (m) a school employee participating in an interview of

11 a child by a social worker, county attorney, or peace

12 officer as provided in 41-3-202; or

13 (n) members of a local interagency staffing group

14 provided for in [section 3].

15 (4) A person who is authorized to receive records under

16 this section shall maintain the confidentiality of the

17 records and may not disclose information in the records to

18 anyone other than the persons described in subsection

19 (3)(a).

20 (5) Nothing in this section is intended to affect the

21 confidentiality of criminal court records or records of law

22 enforcement agencies."

23 **Section 6.** Section 52-1-103, MCA, is amended to read:

24 "52-1-103. Powers and duties of department. The

25 department shall:

1 (1) administer and supervise all forms of child and

2 adult protective services;

3 (2) act as the lead agency in coordinating and planning

4 services to children with multiagency service needs;

5 ~~(2)~~(3) provide funding for and place youth alleged or

6 adjudicated to be delinquent or in need of supervision who

7 are referred or committed to the department;

8 ~~(3)~~(4) provide the following functions, as necessary,

9 for youth in need of care:

10 (a) intake, investigation, case management, and client

11 supervision;

12 (b) placement in youth care facilities;

13 (c) contracting for necessary services;

14 (d) protective services day care; and

15 (e) adoption;

16 ~~(4)~~(5) administer youth correctional facilities;

17 ~~(5)~~(6) provide supervision, care, and control of youth

18 released from a state youth correctional facility;

19 ~~(6)~~(7) license youth care facilities, child placing

20 agencies, day-care facilities, community homes for

21 developmentally disabled persons, community homes for

22 severely disabled persons, and adult foster care facilities;

23 ~~(7)~~(8) act as lead agency in implementing and

24 coordinating child-care programs and services under the

25 Montana Child Care Act;

1 †9†(9) administer interstate compacts for children and
2 delinquent youth;

3 †9†(10) (a) administer child abuse prevention services
4 funded through child abuse grants and the Montana children's
5 trust fund provided for in Title 41, chapter 3, part 7; and

6 (b) administer elder abuse prevention services;

7 †10†(11) (a) make a written evaluation of each plan
8 developed by the local youth services advisory councils, as
9 provided in 52-1-203, indicating those portions of each plan
10 that will be implemented by the department, those portions
11 that will not be implemented, and the reasons for not
12 implementing those portions;

13 (b) develop a statewide youth services and resources
14 plan that takes into consideration local needs as reflected
15 in plans developed by the local youth services advisory
16 councils;

17 †11†(12) administer services to the aged;

18 †12†(13) provide consultant services to:

19 (a) facilities providing care for needy, indigent,
20 handicapped, or dependent adults; and

21 (b) youth care facilities;

22 †13†(14) utilize at maximum efficiency the resources of
23 state government in a coordinated effort to:

24 (a) provide for children in need of temporary
25 protection or correctional services; and

1 (b) coordinate and apply the principles of modern
2 institutional administration to the institutions in the
3 department;

4 †14†(15) subject to the functions of the department of
5 administration, lease or purchase lands for use by
6 institutions in the department and classify those lands to
7 determine which are of such character as to be most
8 profitably used for agricultural purposes, taking into
9 consideration:

10 (a) the needs of all institutions in the department for
11 the food products that can be grown or produced on the
12 lands; and

13 (b) the relative value of agricultural programs in the
14 treatment or rehabilitation of the persons confined in the
15 institutions in the department;

16 †15†(16) utilize the staff and services of other state
17 agencies and units of the Montana university system, within
18 their respective statutory functions, to carry out its
19 functions under this title;

20 †16†(17) propose programs with specific goals and
21 objectives to the legislature to meet the projected
22 long-range needs of institutions in the department,
23 including programs and facilities for the diagnosis,
24 treatment, care, and aftercare of persons placed in
25 institutions in the department;

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1 {17}(18) contract, as necessary, with the county board
2 of welfare for administration of child and adult protection
3 services for that county; and

4 {18}(19) adopt rules necessary to carry out the purposes
5 of 41-3-1126, 41-5-527 through 41-5-529, and this chapter."

6 NEW SECTION. Section 7. Codification instruction.
7 [Sections 1 through 3] are intended to be codified as an
8 integral part of Title 53, chapter 4, and the provisions of
9 Title 53, chapter 4, apply to [sections 1 through 3].

10 NEW SECTION. Section 8. Effective date. [This act] is
11 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

1 SENATE BILL NO. 205
2 INTRODUCED BY ECK, BROOKE
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE STATE
5 AGENCIES TO ENTER INTO A COOPERATIVE AGREEMENT REGARDING THE
6 PROVISION OF CHILDREN'S SERVICES; TO SPECIFY THE
7 REQUIREMENTS FOR A COOPERATIVE AGREEMENT BETWEEN STATE
8 AGENCIES; TO REQUIRE ESTABLISHMENT OF LOCAL INTERAGENCY
9 STAFFING GROUPS; TO DESIGNATE THE DEPARTMENT OF FAMILY
10 SERVICES AS THE LEAD AGENCY IN COORDINATING AND PLANNING
11 SERVICES TO CHILDREN; AMENDING SECTIONS 41-3-107, 41-3-205,
12 AND 52-1-103, MCA; AND PROVIDING AN EFFECTIVE DATE."
13

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

15 NEW SECTION. Section 1. Purpose. It is the purpose of
16 [sections 1 through 3] to strengthen and improve children's
17 services in Montana by requiring interagency cooperation
18 regarding the provision of services to children.

19 NEW SECTION. Section 2. Definitions. For purposes of
20 [sections 1 through 3], unless the context requires
21 otherwise, the following definitions apply:

22 (1) "Children with multiagency service needs" means
23 children under 18 years of age who have a need for services
24 that are available from more than one state agency.

25 (2) "Services" means publicly funded social services

1 for children, including public education, child protective
2 services, mental health services, child health care, and
3 related services.

4 (3) "State agency" means:

5 (a) the department of family services provided for in
6 2-15-2401;

7 (b) the department of health and environmental sciences
8 provided for in 2-15-2101;

9 (c) the department of institutions provided for in
10 2-15-2301;

11 (D) THE BOARD OF CRIME CONTROL PROVIDED FOR IN
12 2-15-2006;

13 ~~(d)~~(E) the department of social and rehabilitation
14 services provided for in 2-15-2201; and

15 ~~(e)~~(F) the superintendent of public instruction
16 provided for in 2-15-701.

17 NEW SECTION. Section 3. Cooperative agreement
18 regarding children's services. (1) State agencies shall
19 enter into a cooperative agreement for the purpose of
20 coordinating services to children with multiagency service
21 needs. HOWEVER, THE EXISTING STATE AND COMMUNITY INTERAGENCY
22 SERVICE DELIVERY AND PLANNING PROCESS FOR DEVELOPMENTAL
23 DISABILITIES MAY NOT BE AFFECTED BY THIS SECTION.

24 (2) The cooperative agreement must MAY:

25 (a) include a functional definition of "children with

SECOND READING



1 multiagency service needs";

2 (b) identify the responsibilities of each state agency

3 in relation to children with multiagency service needs;

4 (c) describe agreements to eliminate RECOGNIZE

5 duplicated services and to fill gaps in services to children

6 with multiagency service needs;

7 ~~{d}--provide---for---interagency---sharing---of---equipment;~~

8 ~~office-space--and-other-agency-resources-as-may-be-necessary~~

9 ~~for-the-efficient-administration-of-multiagency-services;~~

10 {e}{D} define a process for the resolution of disputes

11 between state agencies that relate to specific areas of an

12 agency's service responsibilities;

13 {f}{E} establish local interagency staffing groups that

14 consist of the following members:

15 (i) a local representative from each state agency who

16 is authorized to commit resources and make decisions on

17 behalf of the agency he represents; and

18 (II) REPRESENTATIVES OF LOCAL SCHOOL DISTRICTS, YOUTH

19 PROBATION OFFICES, AND OTHER PUBLIC AGENCIES SERVING YOUTH;

20 AND

21 ~~{i}{III}~~ representatives of local private youth service

22 agencies;

23 {g}{F} provide that if a state agency is not able to

24 provide all the services that a child requires, the agency

25 may submit the child's case history to the local staffing

1 group for the provision of multiagency services to the

2 child;

3 {h}{G} provide that a local interagency staffing group

4 shall meet at the request of any one of its members to

5 consider the provision of services to a child with

6 multiagency service needs;

7 {i}{H} provide for confidentiality of a child's case

8 records in the same manner as provided in 41-3-205; and

9 {j}{I} provide for review and necessary revision of the

10 cooperative agreement at least once annually.

11 (3) For purposes of [sections 1 through 3], the

12 department of family services is designated as the lead

13 agency in coordinating and planning services to children

14 with multiagency service needs. Other state agencies shall

15 cooperate with the department of family services to assure

16 minimum duplication and maximum coordination of services for

17 children in Montana.

18 **Section 4.** Section 41-3-107, MCA, is amended to read:

19 ***41-3-107. Interagency cooperation.** (1) To effectuate

20 the purposes of this chapter, the department of family

21 services shall cooperate with and shall seek the cooperation

22 and involvement of all appropriate public and private

23 agencies, including health, education, social services, and

24 law enforcement agencies; juvenile courts; and any other

25 agency, organization, or program providing or concerned with

1 human services related to the prevention, identification, or
 2 treatment of child abuse or neglect. Such cooperation and
 3 involvement may not include joint case management but may
 4 include joint policy planning, public education, information
 5 services, staff development, and other training.

6 (2) The department shall enter into a cooperative
 7 agreement with other state agencies, as provided in [section
 8 3], for the purpose of implementing this section."

9 **Section 5.** Section 41-3-205, MCA, is amended to read:

10 **"41-3-205. Confidentiality -- disclosure exceptions.**

11 (1) The case records of the department of social and
 12 rehabilitation services, the department of family services
 13 and its local affiliate, the county welfare department, the
 14 county attorney, and the court concerning actions taken
 15 under this chapter and all records concerning reports of
 16 child abuse and neglect shall be kept confidential except as
 17 provided by this section. Any person who permits or
 18 encourages the unauthorized dissemination of their contents
 19 is guilty of a misdemeanor.

20 (2) Records may be disclosed to a court for in camera
 21 inspection if relevant to an issue before it. The court may
 22 permit public disclosure if it finds such disclosure to be
 23 necessary for the fair resolution of an issue before it.

24 (3) Records may also be disclosed to the following
 25 persons or entities in this state or any other state:

1 (a) a department, agency, or organization, including
 2 federal agencies, legally authorized to receive, inspect, or
 3 investigate reports of child abuse or neglect;

4 (b) a licensed youth care facility or a licensed
 5 child-placing agency that is providing services to the
 6 family or child who is the subject of a report in the
 7 records;

8 (c) a licensed health or mental health professional who
 9 is treating the family or child who is the subject of a
 10 report in the records;

11 (d) a parent or guardian of the child who is the
 12 subject of a report in the records or other person
 13 responsible for the child's welfare, without disclosure of
 14 the identity of any person who reported or provided
 15 information on the alleged child abuse or neglect incident
 16 contained in the records;

17 (e) a child named in the records who was allegedly
 18 abused or neglected or his guardian ad litem;

19 (f) the members of an interdisciplinary child
 20 protective team authorized under 41-3-108 for the purposes
 21 of assessing the needs of the child and family, formulating
 22 a treatment plan, and monitoring the plan;

23 (g) a department or agency investigating an applicant
 24 for a license to operate a youth care facility, day-care
 25 facility, or child-placing agency if the investigation is

1 based on a substantiated report and the applicant is
2 notified of the investigation;

3 (h) an employee of the department if disclosure of the
4 records is necessary for administration of programs designed
5 to benefit the child;

6 (i) an agency of an Indian tribe or the relatives of an
7 Indian child if disclosure of the records is necessary to
8 meet requirements of the federal Indian Child Welfare Act;

9 (j) a youth probation officer who is working in an
10 official capacity with the child who is the subject of a
11 report in the records;

12 (k) a county attorney or peace officer if disclosure is
13 necessary for the investigation or prosecution of a case
14 involving child abuse or neglect;

15 (l) a foster care review committee established under
16 41-3-1115; or

17 (m) a school employee participating in an interview of
18 a child by a social worker, county attorney, or peace
19 officer as provided in 41-3-202; or

20 (n) members of a local interagency staffing group
21 provided for in [section 3].

22 (4) A person who is authorized to receive records under
23 this section shall maintain the confidentiality of the
24 records and may not disclose information in the records to
25 anyone other than the persons described in subsection

1 (3)(a).

2 (5) Nothing in this section is intended to affect the
3 confidentiality of criminal court records or records of law
4 enforcement agencies."

5 **Section 6.** Section 52-1-103, MCA, is amended to read:

6 "52-1-103. Powers and duties of department. The
7 department shall:

8 (1) administer and supervise all forms of child and
9 adult protective services;

10 (2) act as the lead agency in coordinating and planning
11 services to children with multiagency service needs;

12 ~~(3)~~ provide funding for and place youth alleged or
13 adjudicated to be delinquent or in need of supervision who
14 are referred or committed to the department;

15 ~~(4)~~ provide the following functions, as necessary,
16 for youth in need of care:

17 (a) intake, investigation, case management, and client
18 supervision;

19 (b) placement in youth care facilities;

20 (c) contracting for necessary services;

21 (d) protective services day care; and

22 (e) adoption;

23 ~~(5)~~ administer youth correctional facilities;

24 ~~(6)~~ provide supervision, care, and control of youth
25 released from a state youth correctional facility;

1 ~~6~~7 license youth care facilities, child placing
 2 agencies, day-care facilities, community homes for
 3 developmentally disabled persons, community homes for
 4 severely disabled persons, and adult foster care facilities;
 5 ~~7~~8 act as lead agency in implementing and
 6 coordinating child-care programs and services under the
 7 Montana Child Care Act;
 8 ~~8~~9 administer interstate compacts for children and
 9 delinquent youth;
 10 ~~9~~10 (a) administer child abuse prevention services
 11 funded through child abuse grants and the Montana children's
 12 trust fund provided for in Title 41, chapter 3, part 7; and
 13 (b) administer elder abuse prevention services;
 14 ~~10~~11 (a) make a written evaluation of each plan
 15 developed by the local youth services advisory councils, as
 16 provided in 52-1-203, indicating those portions of each plan
 17 that will be implemented by the department, those portions
 18 that will not be implemented, and the reasons for not
 19 implementing those portions;
 20 (b) develop a statewide youth services and resources
 21 plan that takes into consideration local needs as reflected
 22 in plans developed by the local youth services advisory
 23 councils;
 24 ~~11~~12 administer services to the aged;
 25 ~~12~~13 provide consultant services to:

1 (a) facilities providing care for needy, indigent,
 2 handicapped, or dependent adults; and
 3 (b) youth care facilities;
 4 ~~13~~14 utilize at maximum efficiency the resources of
 5 state government in a coordinated effort to:
 6 (a) provide for children in need of temporary
 7 protection or correctional services; and
 8 (b) coordinate and apply the principles of modern
 9 institutional administration to the institutions in the
 10 department;
 11 ~~14~~15 subject to the functions of the department of
 12 administration, lease or purchase lands for use by
 13 institutions in the department and classify those lands to
 14 determine which are of such character as to be most
 15 profitably used for agricultural purposes, taking into
 16 consideration:
 17 (a) the needs of all institutions in the department for
 18 the food products that can be grown or produced on the
 19 lands; and
 20 (b) the relative value of agricultural programs in the
 21 treatment or rehabilitation of the persons confined in the
 22 institutions in the department;
 23 ~~15~~16 utilize the staff and services of other state
 24 agencies and units of the Montana university system, within
 25 their respective statutory functions, to carry out its

1 functions under this title;

2 ~~†16†~~(17) propose programs with specific goals and
3 objectives to the legislature to meet the projected
4 long-range needs of institutions in the department,
5 including programs and facilities for the diagnosis,
6 treatment, care, and aftercare of persons placed in
7 institutions in the department;

8 ~~†17†~~(18) contract, as necessary, with the county board
9 of welfare for administration of child and adult protection
10 services for that county; and

11 ~~†18†~~(19) adopt rules necessary to carry out the purposes
12 of 41-3-1126, 41-5-527 through 41-5-529, and this chapter."

13 NEW SECTION. Section 7. Codification instruction.
14 [Sections 1 through 3] are intended to be codified as an
15 integral part of Title 53, chapter 4, and the provisions of
16 Title 53, chapter 4, apply to [sections 1 through 3].

17 NEW SECTION. Section 8. Effective date. [This act] is
18 effective July 1, 1991.

-End-

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SENATE BILL NO. 205
INTRODUCED BY ECK, BROOKE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE STATE AGENCIES TO ENTER INTO A COOPERATIVE AGREEMENT REGARDING THE PROVISION OF CHILDREN'S SERVICES; TO SPECIFY THE REQUIREMENTS FOR A COOPERATIVE AGREEMENT BETWEEN STATE AGENCIES; TO REQUIRE ESTABLISHMENT OF LOCAL INTERAGENCY STAFFING GROUPS; TO DESIGNATE THE DEPARTMENT OF FAMILY SERVICES AS THE LEAD AGENCY IN COORDINATING AND PLANNING SERVICES TO CHILDREN; AMENDING SECTIONS 41-3-107, 41-3-205, AND 52-1-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 3] to strengthen and improve children's services in Montana by requiring interagency cooperation regarding the provision of services to children.

NEW SECTION. Section 2. Definitions. For purposes of [sections 1 through 3], unless the context requires otherwise, the following definitions apply:

(1) "Children with multiagency service needs" means children under 18 years of age who have a need for services that are available from more than one state agency.

(2) "Services" means publicly funded social services

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for children, including public education, child protective services, mental health services, child health care, and related services.

(3) "State agency" means:

(a) the department of family services provided for in 2-15-2401;

(b) the department of health and environmental sciences provided for in 2-15-2101;

(c) the department of institutions provided for in 2-15-2301;

(D) THE BOARD OF CRIME CONTROL PROVIDED FOR IN 2-15-2006;

~~(d)~~(E) the department of social and rehabilitation services provided for in 2-15-2201; and

~~(e)~~(F) the superintendent of public instruction provided for in 2-15-701.

NEW SECTION. Section 3. Cooperative agreement regarding children's services. (1) State agencies shall enter into a cooperative agreement for the purpose of coordinating services to children with multiagency service needs. HOWEVER, THE EXISTING STATE AND COMMUNITY INTERAGENCY SERVICE DELIVERY AND PLANNING PROCESS FOR DEVELOPMENTAL DISABILITIES MAY NOT BE AFFECTED BY THIS SECTION.

(2) The cooperative agreement must MAY:

(a) include a functional definition of "children with

THIRD READING



1 multiagency service needs";

2 (b) identify the responsibilities of each state agency

3 in relation to children with multiagency service needs;

4 (c) describe agreements to eliminate RECOGNIZE

5 duplicated services and to fill gaps in services to children

6 with multiagency service needs;

7 ~~{d}--provide---for---interagency--sharing--of--equipment,~~

8 ~~office-space,-and-other-agency-resources-as-may-be-necessary~~

9 ~~for-the-efficient-administration-of-multiagency-services;~~

10 {e}{D} define a process for the resolution of disputes

11 between state agencies that relate to specific areas of an

12 agency's service responsibilities;

13 {f}{E} establish local interagency staffing groups that

14 consist of the following members:

15 (i) a local representative from each state agency who

16 is authorized to commit resources and make decisions on

17 behalf of the agency he represents; and

18 {II} REPRESENTATIVES OF LOCAL SCHOOL DISTRICTS, YOUTH

19 PROBATION OFFICES, AND OTHER PUBLIC AGENCIES SERVING YOUTH;

20 AND

21 ~~{i}{III}~~ representatives of local private youth service

22 agencies;

23 {g}{F} provide that if a state agency is not able to

24 provide all the services that a child requires, the agency

25 may submit the child's case history to the local staffing

1 group for the provision of multiagency services to the

2 child;

3 {h}{G} provide that a local interagency staffing group

4 shall meet at the request of any one of its members to

5 consider the provision of services to a child with

6 multiagency service needs;

7 {i}{H} provide for confidentiality of a child's case

8 records in the same manner as provided in 41-3-205; and

9 {j}{I} provide for review and necessary revision of the

10 cooperative agreement at least once annually.

11 (3) For purposes of [sections 1 through 3], the

12 department of family services is designated as the lead

13 agency in coordinating and planning services to children

14 with multiagency service needs. Other state agencies shall

15 cooperate with the department of family services to assure

16 minimum duplication and maximum coordination of services for

17 children in Montana.

18 **Section 4.** Section 41-3-107, MCA, is amended to read:

19 "41-3-107. Interagency cooperation. (1) To effectuate

20 the purposes of this chapter, the department of family

21 services shall cooperate with and shall seek the cooperation

22 and involvement of all appropriate public and private

23 agencies, including health, education, social services, and

24 law enforcement agencies; juvenile courts; and any other

25 agency, organization, or program providing or concerned with

1 human services related to the prevention, identification, or
 2 treatment of child abuse or neglect. Such cooperation and
 3 involvement may not include joint case management but may
 4 include joint policy planning, public education, information
 5 services, staff development, and other training.

6 (2) The department shall enter into a cooperative
 7 agreement with other state agencies, as provided in (section
 8 3), for the purpose of implementing this section."

9 **Section 5.** Section 41-3-205, MCA, is amended to read:

10 "41-3-205. Confidentiality -- disclosure exceptions.

11 (1) The case records of the department of social and
 12 rehabilitation services, the department of family services
 13 and its local affiliate, the county welfare department, the
 14 county attorney, and the court concerning actions taken
 15 under this chapter and all records concerning reports of
 16 child abuse and neglect shall be kept confidential except as
 17 provided by this section. Any person who permits or
 18 encourages the unauthorized dissemination of their contents
 19 is guilty of a misdemeanor.

20 (2) Records may be disclosed to a court for in camera
 21 inspection if relevant to an issue before it. The court may
 22 permit public disclosure if it finds such disclosure to be
 23 necessary for the fair resolution of an issue before it.

24 (3) Records may also be disclosed to the following
 25 persons or entities in this state or any other state:

1 (a) a department, agency, or organization, including
 2 federal agencies, legally authorized to receive, inspect, or
 3 investigate reports of child abuse or neglect;

4 (b) a licensed youth care facility or a licensed
 5 child-placing agency that is providing services to the
 6 family or child who is the subject of a report in the
 7 records;

8 (c) a licensed health or mental health professional who
 9 is treating the family or child who is the subject of a
 10 report in the records;

11 (d) a parent or guardian of the child who is the
 12 subject of a report in the records or other person
 13 responsible for the child's welfare, without disclosure of
 14 the identity of any person who reported or provided
 15 information on the alleged child abuse or neglect incident
 16 contained in the records;

17 (e) a child named in the records who was allegedly
 18 abused or neglected or his guardian ad litem;

19 (f) the members of an interdisciplinary child
 20 protective team authorized under 41-3-108 for the purposes
 21 of assessing the needs of the child and family, formulating
 22 a treatment plan, and monitoring the plan;

23 (g) a department or agency investigating an applicant
 24 for a license to operate a youth care facility, day-care
 25 facility, or child-placing agency if the investigation is

1 based on a substantiated report and the applicant is
2 notified of the investigation;

3 (h) an employee of the department if disclosure of the
4 records is necessary for administration of programs designed
5 to benefit the child;

6 (i) an agency of an Indian tribe or the relatives of an
7 Indian child if disclosure of the records is necessary to
8 meet requirements of the federal Indian Child Welfare Act;

9 (j) a youth probation officer who is working in an
10 official capacity with the child who is the subject of a
11 report in the records;

12 (k) a county attorney or peace officer if disclosure is
13 necessary for the investigation or prosecution of a case
14 involving child abuse or neglect;

15 (l) a foster care review committee established under
16 41-3-1115; or

17 (m) a school employee participating in an interview of
18 a child by a social worker, county attorney, or peace
19 officer as provided in 41-3-202; or

20 (n) members of a local interagency staffing group
21 provided for in [section 3].

22 (4) A person who is authorized to receive records under
23 this section shall maintain the confidentiality of the
24 records and may not disclose information in the records to
25 anyone other than the persons described in subsection

1 (3)(a).

2 (5) Nothing in this section is intended to affect the
3 confidentiality of criminal court records or records of law
4 enforcement agencies."

5 **Section 6.** Section 52-1-103, MCA, is amended to read:

6 **"52-1-103. Powers and duties of department.** The
7 department shall:

8 (1) administer and supervise all forms of child and
9 adult protective services;

10 (2) act as the lead agency in coordinating and planning
11 services to children with multiagency service needs;

12 ~~(2)~~(3) provide funding for and place youth alleged or
13 adjudicated to be delinquent or in need of supervision who
14 are referred or committed to the department;

15 ~~(3)~~(4) provide the following functions, as necessary,
16 for youth in need of care:

17 (a) intake, investigation, case management, and client
18 supervision;

19 (b) placement in youth care facilities;

20 (c) contracting for necessary services;

21 (d) protective services day care; and

22 (e) adoption;

23 ~~(4)~~(5) administer youth correctional facilities;

24 ~~(5)~~(6) provide supervision, care, and control of youth
25 released from a state youth correctional facility;

1 ~~6~~(7) license youth care facilities, child placing
 2 agencies, day-care facilities, community homes for
 3 developmentally disabled persons, community homes for
 4 severely disabled persons, and adult foster care facilities;
 5 ~~7~~(8) act as lead agency in implementing and
 6 coordinating child-care programs and services under the
 7 Montana Child Care Act;
 8 ~~8~~(9) administer interstate compacts for children and
 9 delinquent youth;
 10 ~~9~~(10) (a) administer child abuse prevention services
 11 funded through child abuse grants and the Montana children's
 12 trust fund provided for in Title 41, chapter 3, part 7; and
 13 (b) administer elder abuse prevention services;
 14 ~~10~~(11) (a) make a written evaluation of each plan
 15 developed by the local youth services advisory councils, as
 16 provided in 52-1-203, indicating those portions of each plan
 17 that will be implemented by the department, those portions
 18 that will not be implemented, and the reasons for not
 19 implementing those portions;
 20 (b) develop a statewide youth services and resources
 21 plan that takes into consideration local needs as reflected
 22 in plans developed by the local youth services advisory
 23 councils;
 24 ~~11~~(12) administer services to the aged;
 25 ~~12~~(13) provide consultant services to:

1 (a) facilities providing care for needy, indigent,
 2 handicapped, or dependent adults; and
 3 (b) youth care facilities;
 4 ~~13~~(14) utilize at maximum efficiency the resources of
 5 state government in a coordinated effort to:
 6 (a) provide for children in need of temporary
 7 protection or correctional services; and
 8 (b) coordinate and apply the principles of modern
 9 institutional administration to the institutions in the
 10 department;
 11 ~~14~~(15) subject to the functions of the department of
 12 administration, lease or purchase lands for use by
 13 institutions in the department and classify those lands to
 14 determine which are of such character as to be most
 15 profitably used for agricultural purposes, taking into
 16 consideration:
 17 (a) the needs of all institutions in the department for
 18 the food products that can be grown or produced on the
 19 lands; and
 20 (b) the relative value of agricultural programs in the
 21 treatment or rehabilitation of the persons confined in the
 22 institutions in the department;
 23 ~~15~~(16) utilize the staff and services of other state
 24 agencies and units of the Montana university system, within
 25 their respective statutory functions, to carry out its

1 functions under this title;

2 †16†(17) propose programs with specific goals and
3 objectives to the legislature to meet the projected
4 long-range needs of institutions in the department,
5 including programs and facilities for the diagnosis,
6 treatment, care, and aftercare of persons placed in
7 institutions in the department;

8 †17†(18) contract, as necessary, with the county board
9 of welfare for administration of child and adult protection
10 services for that county; and

11 †18†(19) adopt rules necessary to carry out the purposes
12 of 41-3-1126, 41-5-527 through 41-5-529, and this chapter."

13 NEW SECTION. Section 7. Codification instruction.
14 [Sections 1 through 3] are intended to be codified as an
15 integral part of Title 53, chapter 4, and the provisions of
16 Title 53, chapter 4, apply to [sections 1 through 3].

17 NEW SECTION. Section 8. Effective date. [This act] is
18 effective July 1, 1991.

-End-

March 23, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 205 (third reading copy -- blue) be concurred in as amended.

Signed:

Angela Russell
Angela Russell, Chairman

CARRIED BY: REP BROOKE

And, that such amendments read:

1. Title, line 11.
Following: "CHILDREN;"
Insert: "TO PROVIDE FOR ACCESS BY THE INTERAGENCY STAFFING GROUP TO CERTAIN RECORDS;"
2. Title, line 11.
Following: "41-3-205,"
Insert: "41-5-602, 41-5-603,"
3. Page 8, line 5.
Following: line 4
Insert: "Section 6. Section 41-5-602, MCA, is amended to read:
"41-5-602. Law enforcement records. (1) No law enforcement records concerning a youth, except traffic records, may be open to public inspection or their contents disclosed to the public unless the records are directly related to an offense to which publicity must be allowed under subsection (2) of 41-5-601 or unless inspection is ordered by the court.
(2) Inspection of law enforcement records concerning a youth, which records are not open to public inspection under subsection (1), is permitted prior to the sealing of the records by:
 - (a) a youth court having the youth currently before it in any proceeding;
 - (b) the department if it is investigating, supervising, or providing services to the youth;
 - (c) the officers of agencies having legal custody of the youth and those responsible for his supervision after release;
 - (d) any other person, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;
 - (e) law enforcement officers of Montana, when necessary for

the discharge of their immediate duties;

- (f) a district court in which the youth is convicted of a criminal offense, for the purpose of a presentence investigation
- (g) the county attorney; ~~or~~
- (h) the youth, his parent, guardian, or counsel; or
- (i) members of a local interagency staffing group provided for in [section 3]."

Section 7. Section 41-5-603, MCA, is amended to read:

"41-5-603. Youth court and department records. (1) Youth court and youth court-related department records, including social, medical, and psychological records, reports of preliminary inquiries, predispositional studies, and supervision records of probationers, are open to inspection prior to the sealing of the records only to the following:

- (a) the youth court and its professional staff;
- (b) representatives of any agency providing supervision and having legal custody of a youth;
- (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;
- (d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon such party;
- (e) the county attorney;
- (f) the youth who is the subject of the report or record, after he has been emancipated or reaches the age of majority; and
- (g) members of a local interagency staffing group provided for in [section 3]."

(2) All or any part of records information secured from records listed in subsection (1) of this section, when presented to and used by the court in a proceeding under this chapter, shall also be made available to the counsel for the parties to the proceedings.

(3) Petitions, motions, and other pleadings filed in a case, including findings, verdicts, orders, and decrees, shall be open to public inspection only when related to an offense for which access must be allowed under 41-5-601.

(4) All information obtained in discharge of an official duty by any officer or other employee of the youth court or the department shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this chapter to receive such information, unless otherwise ordered by the judge.

(5) After youth court and department records, reports of preliminary inquiries, predispositional studies, and supervision records of probationers are sealed, they are not open to inspection except, upon order of the youth court, for good cause to:

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(a) those persons and agencies listed in subsection (1);
and

(b) adult probation professional staff preparing a
presentence report on a youth who has reached the age of
majority.""

Renumber: subsequent sections

1 SENATE BILL NO. 205

2 INTRODUCED BY ECK, BROOKE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE STATE
5 AGENCIES TO ENTER INTO A COOPERATIVE AGREEMENT REGARDING THE
6 PROVISION OF CHILDREN'S SERVICES; TO SPECIFY THE
7 REQUIREMENTS FOR A COOPERATIVE AGREEMENT BETWEEN STATE
8 AGENCIES; TO REQUIRE ESTABLISHMENT OF LOCAL INTERAGENCY
9 STAFFING GROUPS; TO DESIGNATE THE DEPARTMENT OF FAMILY
10 SERVICES AS THE LEAD AGENCY IN COORDINATING AND PLANNING
11 SERVICES TO CHILDREN; TO PROVIDE FOR ACCESS BY THE
12 INTERAGENCY STAFFING GROUP TO CERTAIN RECORDS; AMENDING
13 SECTIONS 41-3-107, 41-3-205, 41-5-602, 41-5-603, AND
14 52-1-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

17 NEW SECTION. Section 1. Purpose. It is the purpose of
18 [sections 1 through 3] to strengthen and improve children's
19 services in Montana by requiring interagency cooperation
20 regarding the provision of services to children.

21 NEW SECTION. Section 2. Definitions. For purposes of
22 [sections 1 through 3], unless the context requires
23 otherwise, the following definitions apply:

24 (1) "Children with multiagency service needs" means
25 children under 18 years of age who have a need for services

1 that are available from more than one state agency.

2 (2) "Services" means publicly funded social services
3 for children, including public education, child protective
4 services, mental health services, child health care, and
5 related services.

6 (3) "State agency" means:

7 (a) the department of family services provided for in
8 2-15-2401;

9 (b) the department of health and environmental sciences
10 provided for in 2-15-2101;

11 (c) the department of institutions provided for in
12 2-15-2301;

13 (D) THE BOARD OF CRIME CONTROL PROVIDED FOR IN
14 2-15-2006;

15 (E) the department of social and rehabilitation
16 services provided for in 2-15-2201; and

17 (F) the superintendent of public instruction
18 provided for in 2-15-701.

19 NEW SECTION. Section 3. Cooperative agreement
20 regarding children's services. (1) State agencies shall
21 enter into a cooperative agreement for the purpose of
22 coordinating services to children with multiagency service
23 needs. HOWEVER, THE EXISTING STATE AND COMMUNITY INTERAGENCY
24 SERVICE DELIVERY AND PLANNING PROCESS FOR DEVELOPMENTAL
25 DISABILITIES MAY NOT BE AFFECTED BY THIS SECTION.

1 (2) The cooperative agreement must MAY:

2 (a) include a functional definition of "children with

3 multiagency service needs";

4 (b) identify the responsibilities of each state agency

5 in relation to children with multiagency service needs;

6 (c) describe agreements to ~~eliminate~~ RECOGNIZE

7 duplicated services and to fill gaps in services to children

8 with multiagency service needs;

9 ~~(d) provide for interagency sharing of equipment,~~

10 ~~office space, and other agency resources as may be necessary~~

11 ~~for the efficient administration of multiagency services;~~

12 ~~(e)(D)~~ define a process for the resolution of disputes

13 between state agencies that relate to specific areas of an

14 agency's service responsibilities;

15 ~~(f)(E)~~ establish local interagency staffing groups that

16 consist of the following members:

17 (i) a local representative from each state agency who

18 is authorized to commit resources and make decisions on

19 behalf of the agency he represents; and

20 (II) REPRESENTATIVES OF LOCAL SCHOOL DISTRICTS, YOUTH

21 PROBATION OFFICES, AND OTHER PUBLIC AGENCIES SERVING YOUTH;

22 AND

23 ~~(iii)~~ (III) representatives of local private youth service

24 agencies;

25 ~~(g)(F)~~ provide that if a state agency is not able to

1 provide all the services that a child requires, the agency

2 may submit the child's case history to the local staffing

3 group for the provision of multiagency services to the

4 child;

5 ~~(h)(G)~~ provide that a local interagency staffing group

6 shall meet at the request of any one of its members to

7 consider the provision of services to a child with

8 multiagency service needs;

9 ~~(i)(H)~~ provide for confidentiality of a child's case

10 records in the same manner as provided in 41-3-205; and

11 ~~(j)(I)~~ provide for review and necessary revision of the

12 cooperative agreement at least once annually.

13 (3) For purposes of [sections 1 through 3], the

14 department of family services is designated as the lead

15 agency in coordinating and planning services to children

16 with multiagency service needs. Other state agencies shall

17 cooperate with the department of family services to assure

18 minimum duplication and maximum coordination of services for

19 children in Montana.

20 **Section 4.** Section 41-3-107, MCA, is amended to read:

21 **"41-3-107. Interagency cooperation. (1)** To effectuate

22 the purposes of this chapter, the department of family

23 services shall cooperate with and shall seek the cooperation

24 and involvement of all appropriate public and private

25 agencies, including health, education, social services, and

1 law enforcement agencies; juvenile courts; and any other
 2 agency, organization, or program providing or concerned with
 3 human services related to the prevention, identification, or
 4 treatment of child abuse or neglect. Such cooperation and
 5 involvement may not include joint case management but may
 6 include joint policy planning, public education, information
 7 services, staff development, and other training.

8 (2) The department shall enter into a cooperative
 9 agreement with other state agencies, as provided in (section
 10 3), for the purpose of implementing this section."

11 **Section 5.** Section 41-3-205, MCA, is amended to read:

12 **"41-3-205. Confidentiality -- disclosure exceptions.**

13 (1) The case records of the department of social and
 14 rehabilitation services, the department of family services
 15 and its local affiliate, the county welfare department, the
 16 county attorney, and the court concerning actions taken
 17 under this chapter and all records concerning reports of
 18 child abuse and neglect shall be kept confidential except as
 19 provided by this section. Any person who permits or
 20 encourages the unauthorized dissemination of their contents
 21 is guilty of a misdemeanor.

22 (2) Records may be disclosed to a court for in camera
 23 inspection if relevant to an issue before it. The court may
 24 permit public disclosure if it finds such disclosure to be
 25 necessary for the fair resolution of an issue before it.

1 (3) Records may also be disclosed to the following
 2 persons or entities in this state or any other state:

3 (a) a department, agency, or organization, including
 4 federal agencies, legally authorized to receive, inspect, or
 5 investigate reports of child abuse or neglect;

6 (b) a licensed youth care facility or a licensed
 7 child-placing agency that is providing services to the
 8 family or child who is the subject of a report in the
 9 records;

10 (c) a licensed health or mental health professional who
 11 is treating the family or child who is the subject of a
 12 report in the records;

13 (d) a parent or guardian of the child who is the
 14 subject of a report in the records or other person
 15 responsible for the child's welfare, without disclosure of
 16 the identity of any person who reported or provided
 17 information on the alleged child abuse or neglect incident
 18 contained in the records;

19 (e) a child named in the records who was allegedly
 20 abused or neglected or his guardian ad litem;

21 (f) the members of an interdisciplinary child
 22 protective team authorized under 41-3-108 for the purposes
 23 of assessing the needs of the child and family, formulating
 24 a treatment plan, and monitoring the plan;

25 (g) a department or agency investigating an applicant

1 for a license to operate a youth care facility, day-care
2 facility, or child-placing agency if the investigation is
3 based on a substantiated report and the applicant is
4 notified of the investigation;

5 (h) an employee of the department if disclosure of the
6 records is necessary for administration of programs designed
7 to benefit the child;

8 (i) an agency of an Indian tribe or the relatives of an
9 Indian child if disclosure of the records is necessary to
10 meet requirements of the federal Indian Child Welfare Act;

11 (j) a youth probation officer who is working in an
12 official capacity with the child who is the subject of a
13 report in the records;

14 (k) a county attorney or peace officer if disclosure is
15 necessary for the investigation or prosecution of a case
16 involving child abuse or neglect;

17 (l) a foster care review committee established under
18 41-3-1115; or

19 (m) a school employee participating in an interview of
20 a child by a social worker, county attorney, or peace
21 officer as provided in 41-3-202; or

22 (n) members of a local interagency staffing group
23 provided for in [section 3].

24 (4) A person who is authorized to receive records under
25 this section shall maintain the confidentiality of the

1 records and may not disclose information in the records to
2 anyone other than the persons described in subsection
3 (3)(a).

4 (5) Nothing in this section is intended to affect the
5 confidentiality of criminal court records or records of law
6 enforcement agencies."

7 **SECTION 6. SECTION 41-5-602, MCA, IS AMENDED TO READ:**

8 **"41-5-602. Law enforcement records.** (1) No law
9 enforcement records concerning a youth, except traffic
10 records, may be open to public inspection or their contents
11 disclosed to the public unless the records are directly
12 related to an offense to which publicity must be allowed
13 under subsection (2) of 41-5-601 or unless inspection is
14 ordered by the court.

15 (2) Inspection of law enforcement records concerning a
16 youth, which records are not open to public inspection under
17 subsection (1), is permitted prior to the sealing of the
18 records by:

19 (a) a youth court having the youth currently before it
20 in any proceeding;

21 (b) the department if it is investigating, supervising,
22 or providing services to the youth;

23 (c) the officers of agencies having legal custody of
24 the youth and those responsible for his supervision after
25 release;

1 (d) any other person, by order of the court, having a
2 legitimate interest in the case or in the work of the law
3 enforcement agency;

4 (e) law enforcement officers of Montana, when necessary
5 for the discharge of their immediate duties;

6 (f) a district court in which the youth is convicted of
7 a criminal offense, for the purpose of a presentence
8 investigation;

9 (g) the county attorney; or

10 (h) the youth, his parent, guardian, or counsel; or

11 (i) members of a local interagency staffing group
12 provided for in [section 3]."

13 **SECTION 7. SECTION 41-5-603, MCA, IS AMENDED TO READ:**

14 **"41-5-603. Youth court and department records. (1)**
15 Youth court and youth court-related department records,
16 including social, medical, and psychological records,
17 reports of preliminary inquiries, predispositional studies,
18 and supervision records of probationers, are open to
19 inspection prior to the sealing of the records only to the
20 following:

21 (a) the youth court and its professional staff;

22 (b) representatives of any agency providing supervision
23 and having legal custody of a youth;

24 (c) any other person, by order of the court, having a
25 legitimate interest in the case or in the work of the court;

1 (d) any court and its probation and other professional
2 staff or the attorney for a convicted party who had been a
3 party to proceedings in the youth court when considering the
4 sentence to be imposed upon such party;

5 (e) the county attorney;

6 (f) the youth who is the subject of the report or
7 record, after he has been emancipated or reaches the age of
8 majority; and

9 (g) members of a local interagency staffing group
10 provided for in [section 3].

11 (2) All or any part of records information secured from
12 records listed in subsection (1) of this section, when
13 presented to and used by the court in a proceeding under
14 this chapter, shall also be made available to the counsel
15 for the parties to the proceedings.

16 (3) Petitions, motions, and other pleadings filed in a
17 case, including findings, verdicts, orders, and decrees,
18 shall be open to public inspection only when related to an
19 offense for which access must be allowed under 41-5-601.

20 (4) All information obtained in discharge of an
21 official duty by any officer or other employee of the youth
22 court or the department shall be privileged and shall not be
23 disclosed to anyone other than the judge and others entitled
24 under this chapter to receive such information, unless
25 otherwise ordered by the judge.

1 (5) After youth court and department records, reports
2 of preliminary inquiries, predispositional studies, and
3 supervision records of probationers are sealed, they are not
4 open to inspection except, upon order of the youth court,
5 for good cause to:

6 (a) those persons and agencies listed in subsection
7 (1); and

8 (b) adult probation professional staff preparing a
9 presentence report on a youth who has reached the age of
10 majority."

11 **Section 8.** Section 52-1-103, MCA, is amended to read:

12 "52-1-103. Powers and duties of department. The
13 department shall:

14 (1) administer and supervise all forms of child and
15 adult protective services;

16 (2) act as the lead agency in coordinating and planning
17 services to children with multiagency service needs;

18 ~~(2)~~(3) provide funding for and place youth alleged or
19 adjudicated to be delinquent or in need of supervision who
20 are referred or committed to the department;

21 ~~(3)~~(4) provide the following functions, as necessary,
22 for youth in need of care:

23 (a) intake, investigation, case management, and client
24 supervision;

25 (b) placement in youth care facilities;

1 (c) contracting for necessary services;

2 (d) protective services day care; and

3 (e) adoption;

4 ~~(4)~~(5) administer youth correctional facilities;

5 ~~(5)~~(6) provide supervision, care, and control of youth
6 released from a state youth correctional facility;

7 ~~(6)~~(7) license youth care facilities, child placing
8 agencies, day-care facilities, community homes for
9 developmentally disabled persons, community homes for
10 severely disabled persons, and adult foster care facilities;

11 ~~(7)~~(8) act as lead agency in implementing and
12 coordinating child-care programs and services under the
13 Montana Child Care Act;

14 ~~(8)~~(9) administer interstate compacts for children and
15 delinquent youth;

16 ~~(9)~~(10) (a) administer child abuse prevention services
17 funded through child abuse grants and the Montana children's
18 trust fund provided for in Title 41, chapter 3, part 7; and

19 (b) administer elder abuse prevention services;

20 ~~(10)~~(11) (a) make a written evaluation of each plan
21 developed by the local youth services advisory councils, as
22 provided in 52-1-203, indicating those portions of each plan
23 that will be implemented by the department, those portions
24 that will not be implemented, and the reasons for not
25 implementing those portions;

1 (b) develop a statewide youth services and resources
2 plan that takes into consideration local needs as reflected
3 in plans developed by the local youth services advisory
4 councils;

5 ~~(11)~~(12) administer services to the aged;

6 ~~(12)~~(13) provide consultant services to:

7 (a) facilities providing care for needy, indigent,
8 handicapped, or dependent adults; and

9 (b) youth care facilities;

10 ~~(13)~~(14) utilize at maximum efficiency the resources of
11 state government in a coordinated effort to:

12 (a) provide for children in need of temporary
13 protection or correctional services; and

14 (b) coordinate and apply the principles of modern
15 institutional administration to the institutions in the
16 department;

17 ~~(14)~~(15) subject to the functions of the department of
18 administration, lease or purchase lands for use by
19 institutions in the department and classify those lands to
20 determine which are of such character as to be most
21 profitably used for agricultural purposes, taking into
22 consideration:

23 (a) the needs of all institutions in the department for
24 the food products that can be grown or produced on the
25 lands; and

1 (b) the relative value of agricultural programs in the
2 treatment or rehabilitation of the persons confined in the
3 institutions in the department;

4 ~~(15)~~(16) utilize the staff and services of other state
5 agencies and units of the Montana university system, within
6 their respective statutory functions, to carry out its
7 functions under this title;

8 ~~(16)~~(17) propose programs with specific goals and
9 objectives to the legislature to meet the projected
10 long-range needs of institutions in the department,
11 including programs and facilities for the diagnosis,
12 treatment, care, and aftercare of persons placed in
13 institutions in the department;

14 ~~(17)~~(18) contract, as necessary, with the county board
15 of welfare for administration of child and adult protection
16 services for that county; and

17 ~~(18)~~(19) adopt rules necessary to carry out the purposes
18 of 41-3-1126, 41-5-527 through 41-5-529, and this chapter."

19 NEW SECTION. Section 9. Codification instruction.
20 [Sections 1 through 3] are intended to be codified as an
21 integral part of Title 53, chapter 4, and the provisions of
22 Title 53, chapter 4, apply to [sections 1 through 3].

23 NEW SECTION. Section 10. Effective date. [This act] is
24 effective July 1, 1991.

-End-