

SENATE BILL 419

Introduced by Aklestad, et al.

2/16	Introduced
2/18	First Reading
2/18	Referred to Judiciary
2/20	Hearing
2/20	Tabled in Committee

1 *Senate* BILL NO. *419*  
 2 INTRODUCED BY *ARLESTAD Fennell*  
 3 *Resid*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
 5 RELATING TO THE INVESTIGATION AND REMOVAL OF CHILDREN FROM  
 6 THE HOME IN CASES OF SUSPECTED CHILD ABUSE OR NEGLECT; TO  
 7 REQUIRE REASONABLE GROUNDS TO BELIEVE THAT A CHILD IS ABUSED  
 8 OR NEGLECTED IN ALL REPORTS AND INVESTIGATIONS OF SUSPECTED  
 9 CHILD ABUSE OR NEGLECT; TO REQUIRE A PROMPT, INITIAL  
 10 INVESTIGATION OF ALL REPORTS OF SUSPECTED CHILD ABUSE OR  
 11 NEGLECT; TO REQUIRE REASONABLE GROUNDS TO BELIEVE THAT A  
 12 CHILD IS IN IMMEDIATE OR APPARENT DANGER OF HARM PRIOR TO  
 13 REMOVING THE CHILD AND PLACING HIM IN A PROTECTIVE FACILITY;  
 14 TO REQUIRE THAT A PETITION ALLEGING THAT A CHILD IS ABUSED  
 15 OR NEGLECTED MUST BE FILED WITHIN 48 HOURS AFTER THE CHILD  
 16 IS REMOVED FROM HIS HOME OR ANY OTHER PLACE FOR HIS  
 17 PROTECTION OR CARE; AMENDING SECTIONS 41-3-201, 41-3-202,  
 18 41-3-206, AND 41-3-301, MCA; AND PROVIDING AN EFFECTIVE  
 19 DATE."

20  
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 41-3-201, MCA, is amended to read:  
 23 "41-3-201. Reports. (1) When the professionals and  
 24 officials listed in subsection (2) know or have reasonable  
 25 cause grounds to suspect believe, as a result of information

1 they receive in their professional or official capacity,  
 2 that a child is abused or neglected, they shall report the  
 3 matter promptly to the department of family services or its  
 4 local affiliate, which then shall notify the county attorney  
 5 of the county where the child resides.

6 (2) Professionals and officials required to report are:  
 7 (a) physician, resident, intern, or member of a  
 8 hospital's staff engaged in the admission, examination,  
 9 care, or treatment of persons;

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

13 (c) Christian Science practitioner and religious  
 14 healers;

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

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

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

21 or

22 (g) a peace officer or other law enforcement official.

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

1 (4) No person listed in subsection (2) may refuse to  
2 make a report as required in this section on the grounds of  
3 a physician-patient or similar privilege.

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

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

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

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

15 (d) the facts ~~which led the person reporting~~  
16 establishing reasonable grounds to believe that the child  
17 has suffered injury or injuries or willful neglect, within  
18 the meaning of this chapter."

19 **Section 2.** Section 41-3-202, MCA, is amended to read:

20 **"41-3-202. Action on reporting.** (1) Upon receipt of a  
21 report as required by 41-3-201 that a child is or has been  
22 abused or neglected, a social worker or the county attorney  
23 or a peace officer shall promptly conduct ~~a thorough~~ an  
24 initial investigation into the home of the child involved or  
25 any other place where the child is present, into the

1 circumstances surrounding the injury of the child, and into  
2 all other nonfinancial matters ~~which~~ that in the discretion  
3 of the investigator are relevant to the investigation. In  
4 conducting an investigation under this section, a social  
5 worker may not inquire into the financial status of the  
6 child's family or of any other person responsible for the  
7 child's care.

8 (2) The social worker is responsible for assessing the  
9 family and planning for the child. If the child is treated  
10 at a medical facility, the social worker, county attorney,  
11 or peace officer shall, consistent with reasonable medical  
12 practice, have the right of access to the child for  
13 interviews, photographs, and securing physical evidence and  
14 have the right of access to relevant hospital and medical  
15 records pertaining to the child. If considered appropriate  
16 by the social worker, county attorney, or peace officer  
17 conducting an interview of the child, an employee of the  
18 public school attended by the child involved may participate  
19 in any interview of the child if the child is enrolled in  
20 kindergarten through 8th grade.

21 (3) If from the investigation ~~it appears~~ there are  
22 reasonable grounds to believe that the child suffered abuse  
23 or neglect or is in immediate or apparent danger of harm,  
24 the department shall provide protective services to the  
25 child and may provide protective services to any other child

1 under the same care. The department will advise the county  
2 attorney of its investigation.

3 (4) The investigating social worker, within 60 days of  
4 commencing an investigation, shall also furnish a written  
5 report to the department. The department shall maintain a  
6 record system containing child abuse and neglect cases.

7 (5) Any person reporting abuse or neglect which  
8 involves acts or omissions on the part of a public or  
9 private residential institution, home, facility, or agency  
10 shall be responsible for ensuring that the report is made to  
11 the department of family services, its local affiliate, and  
12 the county attorney of the county in which the facility is  
13 located."

14 **Section 3.** Section 41-3-206, MCA, is amended to read:

15 "41-3-206. Procedure in case of child's death. (1) Any  
16 person or official required to report by law who has  
17 reasonable cause grounds to suspect believe that a child has  
18 died as a result of child abuse or neglect shall report his  
19 suspicion the matter to the appropriate medical examiner or  
20 law enforcement officer. Any other person who has reasonable  
21 cause grounds to suspect believe that a child has died as a  
22 result of child abuse or neglect may report his-suspicion  
23 the matter to the appropriate medical examiner or law  
24 enforcement officer.

25 (2) The medical examiner or coroner shall investigate

1 the report and submit his findings, in writing, to the local  
2 law enforcement agency, the appropriate county attorney, the  
3 local child protective service, and, if the person making  
4 the report is a physician, the physician."

5 **Section 4.** Section 41-3-301, MCA, is amended to read:

6 "41-3-301. Emergency protective service. (1) Any child  
7 protective social worker of the department of family  
8 services, a peace officer, or the county attorney who has  
9 reason reasonable grounds to believe any that a youth child  
10 is in immediate or apparent danger of harm may immediately  
11 remove the youth child and place him in a protective  
12 facility. The department may make a request for further  
13 assistance from the a law enforcement agency or take  
14 appropriate legal action. The person or agency placing the  
15 child shall notify the parents, parent, guardian, or other  
16 person having legal custody of the youth child at the time  
17 the placement is made or as soon thereafter as possible.

18 (2) No child who has been removed from his home or any  
19 other place for his protection or care may be placed in a  
20 jail.

21 (3) A petition shall alleging that a child is abused or  
22 neglected must be filed within 48 hours of--emergency  
23 placement--of--a after the child is removed from his home or  
24 any other place for his protection or care unless  
25 arrangements acceptable to the agency for the care of the

1 child have been made by the parents.

2 (4) The department of family services shall make such  
3 necessary arrangements for the youth's child's well-being as  
4 are may be required prior to the court hearing."

5 NEW SECTION. **Section 5.** Effective date. [This act] is  
6 effective July 1, 1991.

-End-