

IN THE HOUSE

MARCH 21, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 605
 2 INTRODUCED BY J. Brown Russell
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
 4 REHABILITATION SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING DISCLOSURE
 7 OF CHILD ABUSE AND NEGLECT RECORDS TO CERTAIN NAMED PERSONS
 8 AND ENTITIES; GRANTING AUTHORITY TO THE DEPARTMENT OF SOCIAL
 9 AND REHABILITATION SERVICES TO ADOPT RULES ON THE DISCLOSURE
 10 OF SUCH RECORDS; AMENDING SECTIONS 41-3-205 AND 41-3-208,
 11 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 Section 1. Section 41-3-205, MCA, is amended to read:

15 "41-3-205. Confidentiality. (1) The case records of
 16 the department of social and rehabilitation services and its
 17 local affiliate, the county welfare department, the county
 18 attorney, and the court concerning actions taken under this
 19 chapter and all records concerning reports of child abuse
 20 and neglect shall be kept confidential except as provided by
 21 this section. Any person who permits or encourages the
 22 unauthorized dissemination of their contents is guilty of a
 23 misdemeanor.

24 ~~†2) Records may be used by interagency~~
 25 ~~interdisciplinary child-protective teams as authorized under~~

1 ~~41-3-108 for the purposes of assessing the needs of the~~
 2 ~~child and family, formulating a treatment plan, and~~
 3 ~~monitoring the plan. Members of the team are required to~~
 4 ~~keep information about the subject individuals confidential.~~

5 ~~†3) (2) Records may be disclosed to a court for~~
 6 ~~in camera inspection if relevant to an issue before it. The~~
 7 ~~court may permit public disclosure if it finds such~~
 8 ~~disclosure to be necessary for the fair resolution of an~~
 9 ~~issue before it.~~

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

12 ~~(a) a department, agency, or organization including~~
 13 ~~federal agencies legally authorized to receive, inspect, or~~
 14 ~~investigate reports of child abuse or neglect;~~

15 ~~(b) a licensed youth care facility or a licensed~~
 16 ~~child-placing agency that is providing services to the~~
 17 ~~family or child who is the subject of a report in the~~
 18 ~~records;~~

19 ~~(c) a licensed health or mental health professional~~
 20 ~~who is treating;~~

21 ~~(i) the family or child who is the subject of a report~~
 22 ~~in the records; or~~

23 ~~(ii) another child he reasonably suspects may have been~~
 24 ~~abused or neglected;~~

25 ~~(d) a parent or guardian of the child who is the~~



1 subject of a report in the records, or other person
2 responsible for the child welfare, without disclosure of
3 the identity of any person who reported or provided
4 information on the alleged child abuse or neglect incident
5 contained in the records;

6 (e) a party to a court proceeding involving the child
7 named in the records conducted under this chapter or his
8 counsel of record;

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

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

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

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

23 (j) an agency of an Indian tribe or the relatives of
24 an Indian child if disclosure of the records is necessary to
25 meet requirements of the federal Indian Child Welfare Act;

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

4 (1) a foster care review committee established under
5 41-3-1115.

6 (4) A person who is authorized to receive records
7 under this section shall maintain the confidentiality of the
8 records and may not disclose information in the records to
9 anyone other than the persons described in subsection
10 (3)(a).

11 ~~†4~~(5) Nothing in this section is intended to affect
12 the confidentiality of criminal court records or records of
13 law enforcement agencies."

14 Section 2. Section 41-3-208, MCA, is amended to read:

15 "41-3-208. Rulemaking authority. (1) The department of
16 social and rehabilitation services shall adopt rules to
17 govern the procedures used by department personnel and by
18 employees of county welfare departments in preparing and
19 processing reports and in making investigations authorized
20 by this chapter or 41-3-1123.

21 (2) The department may adopt rules to govern the
22 disclosure of case records containing reports of child abuse
23 and neglect."

24 NEW SECTION. Section 3. Effective date. This act is
25 effective on passage and approval.

APPROVED BY COMMITTEE
ON JUDICIARY

1 STATEMENT OF INTENT

2 HOUSE BILL 605

3 House Judiciary Committee

4

5 This bill requires a statement of intent because it
6 authorizes the department of social and rehabilitation
7 services to adopt rules to govern the disclosure of case
8 records on reports of child abuse and neglect. The
9 legislature intends that the rules should include procedures
10 or criteria for:

11 (1) requesting and disclosing information in the
12 records;

13 (2) protecting the identity of person named in the
14 records if rights of privacy require such protection;

15 (3) preparing records or reports (psychological,
16 psychiatric, and medical) written by persons other than
17 employees of the department;

18 (4) documenting disclosure of the records;

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24 ~~{2}--Records---may---be---used---by---interagency~~
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11 persons or entities in this state or any other state:

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17 family or child who is the subject of a report in the
18 records;

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HB 0605/02

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HOUSE BILL 605
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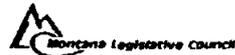
2 HOUSE BILL 605

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