



IN THE SENATE

APRIL 2, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 3, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. 189  
2 INTRODUCED BY *De Volkening*  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PUBLIC  
5 DISCLOSURE OF THE IDENTITY OF A YOUTH CITED OR ARRESTED FOR  
6 OR CHARGED WITH UNLAWFUL POSSESSION OF AN INTOXICATING  
7 SUBSTANCE; AND AMENDING SECTIONS 41-5-601 AND 41-5-602,  
8 MCA."  
9

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

11 Section 1. Section 41-5-601, MCA, is amended to read:

12 "41-5-601. Publicity. (1) No publicity shall be given  
13 to the identity of an arrested youth or to any matter or  
14 proceeding in the youth court involving a youth proceeded  
15 against as, or found to be, a delinquent youth or youth in  
16 need of supervision except as provided in subsection  
17 subsections (2) and (3).

18 (2) When a petition is filed under 41-5-501, publicity  
19 may not be withheld as to the identity of any youth formally  
20 charged with or proceeded against or found to be a  
21 delinquent youth as a result of the commission of any  
22 offense that would be punishable as a felony if the youth  
23 were an adult.

24 (3) Publicity may not be withheld as to the identity  
25 of any youth arrested or cited for or charged with a

1 violation of 45-5-624."

2 Section 2. Section 41-5-602, MCA, is amended to read:

3 "41-5-602. Law enforcement records. (1) No law  
4 enforcement records concerning a youth, except traffic  
5 records, may be open to public inspection or their contents  
6 disclosed to the public unless the records are directly  
7 related to an offense to which publicity must be allowed  
8 under subsection subsections (2) and (3) of 41-5-601 or  
9 unless inspection is ordered by the court.

10 (2) Inspection of law enforcement records concerning a  
11 youth, which records are not open to public inspection under  
12 subsection (1), is permitted prior to the sealing of the  
13 records by:

14 (a) a youth court having the youth currently before it  
15 in any proceeding;

16 (b) the officers of agencies having legal custody of  
17 the youth and those responsible for his supervision after  
18 release;

19 (c) any other person, by order of the court, having a  
20 legitimate interest in the case or in the work of the law  
21 enforcement agency;

22 (d) law enforcement officers of Montana, when  
23 necessary for the discharge of their immediate duties;

24 (e) a district court in which the youth is convicted  
25 of a criminal offense, for the purpose of a presentence

- 1 investigation;
- 2 (f) the county attorney; or
- 3 (g) the youth, his parent, guardian, or counsel."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 SENATE BILL NO. 189  
 2 INTRODUCED BY VAN VALKENBURG  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PUBLIC  
 5 DISCLOSURE TO CERTAIN SCHOOL OFFICIALS OF THE IDENTITY OF A  
 6 YOUTH CITED OR ARRESTED FOR OR CHARGED WITH UNLAWFUL  
 7 POSSESSION OF AN INTOXICATING SUBSTANCE OR A DANGEROUS DRUG;  
 8 AND AMENDING SECTIONS SECTION 41-5-601 AND 41-5-602, MCA."

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

11 Section 1. Section 41-5-601, MCA, is amended to read:

12 "41-5-601. Publicity. (1) No publicity shall be given  
 13 to the identity of an arrested youth or to any matter or  
 14 proceeding in the youth court involving a youth proceeded  
 15 against as, or found to be, a delinquent youth or youth in  
 16 need of supervision except as provided in subsection  
 17 subsections (2) and (3).

18 (2) When a petition is filed under 41-5-501, publicity  
 19 may not be withheld as to the identity of any youth formally  
 20 charged with or proceeded against or found to be a  
 21 delinquent youth as a result of the commission of any  
 22 offense that would be punishable as a felony if the youth  
 23 were an adult.

24 (3) ~~Publicity may not be withheld as to the~~ THE  
 25 identity of any youth arrested or cited for or charged with

1 a violation of 45-5-624 OR 45-9-102 MAY BE DISCLOSED BY LAW  
 2 ENFORCEMENT OFFICIALS TO THE ADMINISTRATIVE OFFICIALS OF THE  
 3 SCHOOL IN WHICH THE YOUTH IS A STUDENT. HOWEVER, THE  
 4 INFORMATION MAY NOT BE FURTHER DISCLOSED BY THE SCHOOL  
 5 OFFICIALS."

6 Section 2. Section 41-5-602, MCA, is amended to read:  
 7 "41-5-602. Law enforcement records. (1) No law  
 8 enforcement records concerning a youth, except traffic  
 9 records, may be open to public inspection or their contents  
 10 disclosed to the public unless the records are directly  
 11 related to an offense to which publicity must be allowed  
 12 under subsection subsections (2) and (3) of 41-5-601 or  
 13 unless inspection is ordered by the court.

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

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

20 (b) the officers of agencies having legal custody of  
 21 the youth and those responsible for his supervision after  
 22 release;

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



1           (d)--law--enforcement---officers---of---Montana,---when  
2 necessary-for-the-discharge-of-their-immediate-duties;

3           (e)--a--district--court-in-which-the-youth-is-convicted  
4 of-a-criminal-offense,--for--the--purpose--of--a--presentence  
5 investigation;

6           (f)--the-county-attorney,--or

7           (g)--the-youth,--his-parent,--guardian,--or-counsel;"

-End-

## 1 SENATE BILL NO. 189

2 INTRODUCED BY VAN VALKENBURG

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PUBLIC  
5 DISCLOSURE TO CERTAIN SCHOOL OFFICIALS OF THE IDENTITY OF A  
6 YOUTH ~~CITED-OR-ARRESTED-FOR-OR--CHARGED--WITH~~ CONVICTED OF  
7 UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE OR A  
8 DANGEROUS DRUG; AND AMENDING SECTIONS SECTION 41-5-601 AND  
9 41-5-602, MCA."

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

12 Section 1. Section 41-5-601, MCA, is amended to read:

13 "41-5-601. Publicity. (1) No publicity shall be given  
14 to the identity of an arrested youth or to any matter or  
15 proceeding in the youth court involving a youth proceeded  
16 against as, or found to be, a delinquent youth or youth in  
17 need of supervision except as provided in subsection  
18 subsections (2) and (3).

19 (2) When a petition is filed under 41-5-501, publicity  
20 may not be withheld as to the identity of any youth formally  
21 charged with or proceeded against or found to be a  
22 delinquent youth as a result of the commission of any  
23 offense that would be punishable as a felony if the youth  
24 were an adult.

25 (3) Publicity may not be withheld as to the THE

1 identity of any youth arrested-or-cited-for-or-charged-with  
2 CONVICTED OF a violation of 45-5-624 OR 45-9-102 MAY BE  
3 DISCLOSED BY LAW ENFORCEMENT OFFICIALS TO THE ADMINISTRATIVE  
4 OFFICIALS OF THE SCHOOL IN WHICH THE YOUTH IS A STUDENT.  
5 HOWEVER, THE INFORMATION MAY NOT BE FURTHER DISCLOSED BY THE  
6 SCHOOL OFFICIALS."

7 Section 2. 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 subsections (2) and (3) of 41-5-601 or  
14 unless inspection is 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 officers of agencies having legal custody of  
22 the youth and those responsible for his supervision after  
23 release;

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

1 enforcement-agency;

2 (d)--law--enforcement---officers---of---Montana,---when  
3 necessary-for-the-discharge-of-their-immediate-duties;

4 (e)--a--district--court--in--which--the--youth--is--convicted  
5 of--a--criminal--offense,--for--the--purpose--of--a--presentence  
6 investigation;

7 (f)--the--county--attorney,--or

8 (g)--the--youth,--his--parent,--guardian,--or--counsel;"

-End-



## SENATE BILL NO. 189

INTRODUCED BY VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PUBLIC DISCLOSURE TO CERTAIN SCHOOL OFFICIALS OF THE IDENTITY OF A YOUTH ~~CITED OR ARRESTED FOR OR CHARGED WITH~~ CONVICTED OF WHO ADMITS VIOLATING OR IS ADJUDICATED AS HAVING VIOLATED A LAW RELATING TO UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE OR A DANGEROUS DRUG; AND AMENDING SECTIONS SECTION 41-5-601 AND 41-5-602, MCA."

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

Section 1. Section 41-5-601, MCA, is amended to read:

"41-5-601. Publicity. (1) No publicity shall be given to the identity of an arrested youth or to any matter or proceeding in the youth court involving a youth proceeded against as, or found to be, a delinquent youth or youth in need of supervision except as provided in subsection subsections (2) and (3).

(2) When a petition is filed under 41-5-501, publicity may not be withheld as to the identity of any youth formally charged with or proceeded against or found to be a delinquent youth as a result of the commission of any offense that would be punishable as a felony if the youth were an adult.

(3) Publicity may not be withheld as to the THE identity of any youth arrested or cited for or charged with CONVICTED OF a violation of WHO ADMITS VIOLATING OR IS ADJUDICATED AS HAVING VIOLATED 45-5-624 OR 45-9-102 MAY BE DISCLOSED BY LAW ENFORCEMENT YOUTH COURT OFFICIALS TO THE ADMINISTRATIVE OFFICIALS OF THE SCHOOL IN WHICH THE YOUTH IS A STUDENT FOR PURPOSES OF REFERRAL FOR ENROLLMENT IN A SUBSTANCE ABUSE PROGRAM OR ENFORCEMENT OF SCHOOL DISCIPLINARY PROCEDURES THAT EXISTED AT THE TIME OF THE ADMISSION OR ADJUDICATION. HOWEVER, THE THE INFORMATION MAY NOT BE FURTHER DISCLOSED BY THE SCHOOL OFFICIALS AND MAY NOT BE MADE PART OF THE STUDENT'S PERMANENT RECORDS."

Section 2. 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 subsections (2) and (3) 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

1 in-any-proceeding;

2 (b)--the-officers-of-agencies-having-legal--custody--of  
3 the--youth--and--those-responsible-for-his-supervision-after  
4 release;

5 (c)--any-other-person,by-order-of-the-court,--having--a  
6 legitimate--interest--in--the-case-or-in-the-work-of-the-law  
7 enforcement-agency;

8 (d)--law--enforcement---officers---of---Montana,---when  
9 necessary-for-the-discharge-of-their-immediate-duties;

10 (e)--a--district--court-in-which-the-youth-is-convicted  
11 of-a-criminal-offense,for--the--purpose--of--a--presentence  
12 investigation;

13 (f)--the-county-attorney,or

14 (g)--the-youth,--his-parent,guardian,or-counsel;."#

-End-

# STANDING COMMITTEE REPORT

## HOUSE

MARCH 19, 19 87

Mr. Speaker: We, the committee on JUDICIARY  
report SENATE BILL NO. 189

- do pass
- do not pass
- be concurred in
- be not concurred in
- as amended
- statement of intent attached

*Earl F. Ray*  
\_\_\_\_\_  
Chairman

1. Title, line 6.  
Strike: "CONVICTED OF"  
Insert: "WHO ADMITS VIOLATING OR IS ADJUDICATED AS HAVING VIOLATED A LAW RELATING TO"
2. Page 2, line 2.  
Strike: "CONVICTED OF a violation of"  
Insert: "who admits violating or is adjudicated as having violated"
3. Page 2, line 3.  
Strike: "LAW ENFORCEMENT"  
Insert: "YOUTH COURT"
4. Page 2, line 4.  
Following: "STUDENT"  
Insert: "for purposes of referral for enrollment in a substance abuse program or enforcement of school disciplinary procedures that existed at the time of the admission or adjudication."
5. Page 2, line 5.  
Strike: "HOWEVER,"  
Strike: "BY THE"
6. Page 2, line 6.  
Strike: "SCHOOL OFFICIALS"  
Insert: "and may not be made part of the student's permanent records"

~~CONFIDENTIAL~~

*JAA*

*TP*

THIRD reading copy ( BLUE color )

REP. BULGER WILL CARRY THE BILL!