

HOUSE BILL NO. 80

INTRODUCED BY STRIZICH, RUSSELL, DEMARS,  
NISBET, WYATT, GOOD, PHILLIPS, WALKER, WHALEN

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE HOUSE

JANUARY 5, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 6, 1989	FIRST READING.
JANUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 11, 1989	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 12, 1989	ENGROSSING REPORT.
JANUARY 13, 1989	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 ~~House~~ BILL NO. 80  
2 INTRODUCED BY Angela Russo  
3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES Whalen  
4 Alison Elzy William G. Phillips Walter

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING DISCLOSURE  
6 OF CHILD ABUSE AND NEGLECT RECORDS TO YOUTH PROBATION  
7 OFFICERS; AMENDING SECTION 41-3-205, MCA; AND PROVIDING AN  
8 IMMEDIATE EFFECTIVE DATE."  
9

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

11 **Section 1.** 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  
11 who 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  
9 an 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 ~~(j)~~(k) a county attorney or peace officer if  
15 disclosure is necessary for the investigation or prosecution  
16 of a case involving child abuse or neglect; or

17 ~~(k)~~(l) a foster care review committee established  
18 under 41-3-1115.

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

24 (5) Nothing in this section is intended to affect the  
25 confidentiality of criminal court records or records of law

1 enforcement agencies."

2 **Section 2. Extension of authority.** Any existing  
3 authority to make rules on the subject of the provisions of  
4 [this act] is extended to the provisions of [this act].

5 **Section 3. Effective date.** [This act] is effective on  
6 passage and approval.

-End-

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

1 ~~House~~ BILL NO. 80  
2 INTRODUCED BY Angelita Rundo  
3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES  
4 Alana Wyatt William J. Phillips Whalen  
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(f) the members of an interdisciplinary child protective team authorized under 41-3-108 for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

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