

SENATE BILL NO. 66
INTRODUCED BY JACOBSON

IN THE SENATE

JANUARY 5, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
	FIRST READING.
JANUARY 24, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 25, 1989	PRINTING REPORT.
JANUARY 26, 1989	SECOND READING, DO PASS.
JANUARY 27, 1989	ENGROSSING REPORT.
JANUARY 28, 1989	THIRD READING, PASSED. AYES, 44; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 81; NOES, 11.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989	RECEIVED FROM HOUSE.
---------------	----------------------

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 66
2 INTRODUCED BY Jackson
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL
5 EMPLOYEES TO PARTICIPATE IN INTERVIEWS OF CHILDREN IN
6 KINDERGARTEN THROUGH 8TH GRADE IN ABUSE OR NEGLECT
7 INVESTIGATIONS; AMENDING SECTION 41-3-202, MCA; AND
8 PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 41-3-202, MCA, is amended to read:

12 "41-3-202. Action on reporting. (1) Upon receipt of a
13 report as required by 41-3-201 that a child is or has been
14 abused or neglected, a social worker or the county attorney
15 or a peace officer shall promptly conduct a thorough
16 investigation into the home of the child involved or any
17 other place where the child is present, into the
18 circumstances surrounding the injury of the child, and into
19 all other nonfinancial matters which in the discretion of
20 the investigator are relevant to the investigation. In
21 conducting an investigation under this section, a social
22 worker may not inquire into the financial status of the
23 child's family or of any other person responsible for the
24 child's care.

25 (2) The social worker is responsible for assessing the

1 family and planning for the child. If the child is treated
2 at a medical facility, the social worker, county attorney,
3 or peace officer shall, consistent with reasonable medical
4 practice, have the right of access to the child for
5 interviews, photographs, and securing physical evidence and
6 have the right of access to relevant hospital and medical
7 records pertaining to the child. If considered appropriate
8 by the social worker, an employee of the public school
9 attended by the child involved may participate in at least
10 the first interview of the child, if the child is enrolled
11 in kindergarten through 8th grade.

12 (3) If from the investigation it appears that the
13 child suffered abuse or neglect, the department shall
14 provide protective services to the child and may provide
15 protective services to any other child under the same care.
16 The department will advise the county attorney of its
17 investigation.

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

22 (5) Any person reporting abuse or neglect which
23 involves acts or omissions on the part of a public or
24 private residential institution, home, facility, or agency
25 shall be responsible for ensuring that the report is made to

LC 0278/01

1 the department of family services, its local affiliate, and
2 the county attorney of the county in which the facility is
3 located."

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

7 **Section 3. Effective date.** [This act] is effective
8 July 1, 1989.

-End-

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

SENATE BILL NO. 66

INTRODUCED BY JACOBSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL
EMPLOYEES TO PARTICIPATE IN INTERVIEWS OF CHILDREN IN
KINDERGARTEN THROUGH 8TH GRADE IN ABUSE OR NEGLECT
INVESTIGATIONS; AMENDING ~~SECTION~~ SECTIONS 41-3-202, AND
41-3-205, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 41-3-202, MCA, is amended to read:

"41-3-202. Action on reporting. (1) Upon receipt of a
report as required by 41-3-201 that a child is or has been
abused or neglected, a social worker or the county attorney
or a peace officer shall promptly conduct a thorough
investigation into the home of the child involved or any
other place where the child is present, into the
circumstances surrounding the injury of the child, and into
all other nonfinancial matters which in the discretion of
the investigator are relevant to the investigation. In
conducting an investigation under this section, a social
worker may not inquire into the financial status of the
child's family or of any other person responsible for the
child's care.

(2) The social worker is responsible for assessing the

family and planning for the child. If the child is treated
at a medical facility, the social worker, county attorney,
or peace officer shall, consistent with reasonable medical
practice, have the right of access to the child for
interviews, photographs, and securing physical evidence and
have the right of access to relevant hospital and medical
records pertaining to the child. If considered appropriate
by the social worker, COUNTY ATTORNEY, OR PEACE OFFICER
CONDUCTING AN INTERVIEW OF THE CHILD, an employee of the
public school attended by the child involved may participate
in at-least-the-first ANY interview of the child, if the
child is enrolled in kindergarten through 8th grade.

(3) If from the investigation it appears that the
child suffered abuse or neglect, the department shall
provide protective services to the child and may provide
protective services to any other child under the same care.
The department will advise the county attorney of its
investigation.

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

(5) Any person reporting abuse or neglect which
involves acts or omissions on the part of a public or
private residential institution, home, facility, or agency

1 shall be responsible for ensuring that the report is made to
 2 the department of family services, its local affiliate, and
 3 the county attorney of the county in which the facility is
 4 located."

5 **SECTION 2. SECTION 41-3-205, MCA, IS AMENDED TO READ:**

6 **"41-3-205. Confidentiality -- disclosure exceptions.**

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

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

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

22 (a) a department, agency, or organization, including
 23 federal agencies, legally authorized to receive, inspect, or
 24 investigate reports of child abuse or neglect;

25 (b) a licensed youth care facility or a licensed

1 child-placing agency that is providing services to the
 2 family or child who is the subject of a report in the
 3 records;

4 (c) a licensed health or mental health professional
 5 who is treating the family or child who is the subject of a
 6 report in the records;

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

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

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

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

24 (h) an employee of the department if disclosure of the
 25 records is necessary for administration of programs designed

1 to benefit the child;

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

5 (j) a county attorney or peace officer if disclosure
6 is necessary for the investigation or prosecution of a case
7 involving child abuse or neglect; or

8 (k) a foster care review committee established under
9 41-3-1115; or

10 (l) 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.

13 (4) A person who is authorized to receive records
14 under this section shall maintain the confidentiality of the
15 records and may not disclose information in the records to
16 anyone other than the persons described in subsection
17 (3)(a).

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

21 NEW SECTION. Section 3. Extension of authority. Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

25 NEW SECTION. Section 4. Effective date. [This act] is

1 effective July 1, 1989.

-End-

SENATE BILL NO. 66

INTRODUCED BY JACOBSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL EMPLOYEES TO PARTICIPATE IN INTERVIEWS OF CHILDREN IN KINDERGARTEN THROUGH 8TH GRADE IN ABUSE OR NEGLECT INVESTIGATIONS; AMENDING SECTION SECTIONS 41-3-202, AND 41-3-205, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 41-3-202, MCA, is amended to read:

"41-3-202. Action on reporting. (1) Upon receipt of a report as required by 41-3-201 that a child is or has been abused or neglected, a social worker or the county attorney or a peace officer shall promptly conduct a thorough investigation into the home of the child involved or any other place where the child is present, into the circumstances surrounding the injury of the child, and into all other nonfinancial matters which in the discretion of the investigator are relevant to the investigation. In conducting an investigation under this section, a social worker may not inquire into the financial status of the child's family or of any other person responsible for the child's care.

(2) The social worker is responsible for assessing the

family and planning for the child. If the child is treated at a medical facility, the social worker, county attorney, or peace officer shall, consistent with reasonable medical practice, have the right of access to the child for interviews, photographs, and securing physical evidence and have the right of access to relevant hospital and medical records pertaining to the child. If considered appropriate by the social worker, COUNTY ATTORNEY, OR PEACE OFFICER CONDUCTING AN INTERVIEW OF THE CHILD, an employee of the public school attended by the child involved may participate in at-least-the-first ANY interview of the child, if the child is enrolled in kindergarten through 8th grade.

(3) If from the investigation it appears that the child suffered abuse or neglect, the department shall provide protective services to the child and may provide protective services to any other child under the same care. The department will advise the county attorney of its investigation.

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

(5) Any person reporting abuse or neglect which involves acts or omissions on the part of a public or private residential institution, home, facility, or agency

1 shall be responsible for ensuring that the report is made to
2 the department of family services, its local affiliate, and
3 the county attorney of the county in which the facility is
4 located."

5 **SECTION 2. SECTION 41-3-205, MCA, IS AMENDED TO READ:**

6 **"41-3-205. Confidentiality -- disclosure exceptions.**

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

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

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

22 (a) a department, agency, or organization, including
23 federal agencies, legally authorized to receive, inspect, or
24 investigate reports of child abuse or neglect;

25 (b) a licensed youth care facility or a licensed

1 child-placing agency that is providing services to the
2 family or child who is the subject of a report in the
3 records;

4 (c) a licensed health or mental health professional
5 who is treating the family or child who is the subject of a
6 report in the records;

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

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

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

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

24 (h) an employee of the department if disclosure of the
25 records is necessary for administration of programs designed

1 to benefit the child;

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

5 (j) a county attorney or peace officer if disclosure
6 is necessary for the investigation or prosecution of a case
7 involving child abuse or neglect; or

8 (k) a foster care review committee established under
9 41-3-1115; or

10 (l) 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.

13 (4) A person who is authorized to receive records
14 under this section shall maintain the confidentiality of the
15 records and may not disclose information in the records to
16 anyone other than the persons described in subsection
17 (3)(a).

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

21 NEW SECTION. Section 3. Extension of authority. Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

25 NEW SECTION. Section 4. Effective date. [This act] is

1 effective July 1, 1989.

-End-

SENATE BILL NO. 66

INTRODUCED BY JACOBSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL EMPLOYEES TO PARTICIPATE IN INTERVIEWS OF CHILDREN IN KINDERGARTEN THROUGH 8TH GRADE IN ABUSE OR NEGLECT INVESTIGATIONS; AMENDING ~~SECTION~~ SECTIONS 41-3-202, AND 41-3-205, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 41-3-202, MCA, is amended to read:

"41-3-202. Action on reporting. (1) Upon receipt of a report as required by 41-3-201 that a child is or has been abused or neglected, a social worker or the county attorney or a peace officer shall promptly conduct a thorough investigation into the home of the child involved or any other place where the child is present, into the circumstances surrounding the injury of the child, and into all other nonfinancial matters which in the discretion of the investigator are relevant to the investigation. In conducting an investigation under this section, a social worker may not inquire into the financial status of the child's family or of any other person responsible for the child's care.

(2) The social worker is responsible for assessing the

family and planning for the child. If the child is treated at a medical facility, the social worker, county attorney, or peace officer shall, consistent with reasonable medical practice, have the right of access to the child for interviews, photographs, and securing physical evidence and have the right of access to relevant hospital and medical records pertaining to the child. If considered appropriate by the social worker, COUNTY ATTORNEY, OR PEACE OFFICER CONDUCTING AN INTERVIEW OF THE CHILD, an employee of the public school attended by the child involved may participate in at-least-the-first ANY interview of the child, if the child is enrolled in kindergarten through 8th grade.

(3) If from the investigation it appears that the child suffered abuse or neglect, the department shall provide protective services to the child and may provide protective services to any other child under the same care. The department will advise the county attorney of its investigation.

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

(5) Any person reporting abuse or neglect which involves acts or omissions on the part of a public or private residential institution, home, facility, or agency

shall be responsible for ensuring that the report is made to the department of family services, its local affiliate, and the county attorney of the county in which the facility is located."

SECTION 2. SECTION 41-3-205, MCA, IS AMENDED TO READ:

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

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

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

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

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

(b) a licensed youth care facility or a licensed

child-placing agency that is providing services to the family or child who is the subject of a report in the records;

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

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

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

(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;

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

(h) an employee of the department if disclosure of the records is necessary for administration of programs designed

1 to benefit the child;

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

5 (j) a county attorney or peace officer if disclosure
6 is necessary for the investigation or prosecution of a case
7 involving child abuse or neglect; or

8 (k) a foster care review committee established under
9 41-3-1115; or

10 (1) 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.

13 (4) A person who is authorized to receive records
14 under this section shall maintain the confidentiality of the
15 records and may not disclose information in the records to
16 anyone other than the persons described in subsection
17 (3)(a).

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

21 NEW SECTION. **Section 3. Extension of authority.** Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

25 NEW SECTION. **Section 4. Effective date.** [This act] is

1 effective July 1, 1989.

-End-