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INTRODUCED BY House BILL NO. 429  
Brad Mohan

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING YOUTH COURT CONFIDENTIALITY PROVISIONS; PROVIDING THAT CERTAIN YOUTH CASE RECORDS MUST BE SEALED WHEN THE COURT'S JUDGMENTS HAVE BEEN FULFILLED; CLARIFYING THAT JUSTICE'S COURT RECORDS RELATED TO A YOUTH CONTINUE TO BE A MATTER OF PUBLIC RECORD AFTER THE YOUTH REACHES 18 YEARS OF AGE; REQUIRING NOTIFICATION OF AND CONSULTATION WITH VICTIMS OF JUVENILE FELONY OFFENSES; AMENDING SECTIONS 41-5-521, 41-5-603, 41-5-604, 46-24-207, AND 52-2-211, MCA; REPEALING SECTIONS 41-5-601 AND 41-5-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Youth court matters -- public record.** All youth court matters on file with the clerk of court related to a youth who is alleged or found to be a youth in need of supervision or a delinquent youth are a public record until the record is sealed under 41-5-604.

**NEW SECTION. Section 2. Youth matters cited in justice's court -- public record.** All filed matters related to a youth cited in a justice's court are a public record.

**Section 3.** Section 41-5-521, MCA, is amended to read:

**"41-5-521. Adjudicatory hearing.** (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, ~~his~~ or the youth's parent, guardian, or attorney may demand a jury trial on ~~such~~ the contested offenses. In the absence of ~~such~~ a demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearing ~~shall~~ must be set immediately and accorded a preferential priority.

(2) An adjudicatory hearing ~~shall~~ must be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in

1 need of supervision. If the hearing is before a jury, the jury's function ~~shall be~~ is to determine whether the  
 2 youth committed the contested offenses. If the hearing is before the youth court judge without a jury, the  
 3 judge shall make and record ~~his~~ findings on all issues. If the allegations of the petitions are not established  
 4 at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

5 (3) An adjudicatory hearing shall must be recorded verbatim by whatever means the court  
 6 considers appropriate.

7 (4) The youth charged in a petition must be present at the hearing and, if brought from detention  
 8 to the hearing, may not appear clothed in institutional clothing.

9 (5) In a hearing on a petition under this section, the general public may not be excluded ~~when the~~  
 10 ~~hearing is held on a contested offense to which publicity must be allowed under subsection (2) of~~  
 11 ~~41-5-601.~~

12 (6) If, on the basis of a valid admission by a youth of the allegations of the petition or after the  
 13 hearing required by this section, a youth is found to be a delinquent youth or a youth in need of  
 14 supervision, the court shall schedule a dispositional hearing under this chapter.

15 (7) When a jury trial is required in a case, it may be held before a jury selected as provided in Title  
 16 25, chapter 7, part 2, and in Rule 47, M.R.Civ.P., Rule 47."

17  
 18 **Section 4.** Section 41-5-603, MCA, is amended to read:

19 **"41-5-603. Youth court and department records.** (1) ~~Youth~~ Except as provided in subsection (2),  
 20 all youth court and youth court related department records on file with the clerk of court, including social,  
 21 medical, and psychological records, reports of preliminary inquiries, predispositional studies, and supervision  
 22 records of probationers petitions, motions, other filed pleadings, court findings, verdicts, orders, and  
 23 decrees, are open to public inspection prior to the sealing of until the records are sealed under 41-5-604.

24 (2) Social, medical, and psychological records, predispositional studies, and supervision records  
 25 of probationers are open only to the following:

- 26 (a) the youth court and its professional staff;  
 27 (b) representatives of any agency providing supervision and having legal custody of a youth;  
 28 (c) any other person, by order of the court, having a legitimate interest in the case or in the work  
 29 of the court;  
 30 (d) any court and its probation and other professional staff or the attorney for a convicted party

1 who had been a party to proceedings in the youth court when considering the sentence to be imposed upon  
2 ~~such~~ the party;

3 (e) the county attorney;

4 (f) the youth who is the subject of the report or record, after ~~he has been emancipated~~  
5 emancipation or ~~reaches~~ reaching the age of majority;

6 (g) a member of a county interdisciplinary child information team formed under 52-2-211 who is  
7 not listed in this subsection ~~(1)~~ (2); and

8 (h) members of a local interagency staffing group provided for in 52-2-203.

9 ~~(2)~~(3) All or any part of records information secured from records listed in subsection ~~(1)~~ (2) of this  
10 ~~section~~, when presented to and used by the court in a proceeding under this chapter, ~~shall~~ must also be  
11 made available to the counsel for the parties to the proceedings.

12 ~~(3) Petitions, motions, and other pleadings filed in a case, including findings, verdicts, orders, and~~  
13 ~~decrees, shall be open to public inspection only when related to an offense for which access must be~~  
14 ~~allowed under 41-5-601.~~

15 ~~(4) All information obtained in discharge of an official duty by any officer or other employee of the~~  
16 ~~youth court or the department shall be privileged and shall not be disclosed to anyone other than the judge~~  
17 ~~and others entitled under this chapter to receive such information, unless otherwise ordered by the judge.~~

18 ~~(5)~~(4) After youth court and department records, reports of preliminary inquiries, predispositional  
19 studies, and supervision records of probationers are sealed, they are not open to inspection except, upon  
20 order of the youth court, for good cause to:

21 (a) those persons and agencies listed in subsection ~~(1)~~ (2); and

22 (b) adult probation professional staff preparing a presentence report on a youth who has reached  
23 the age of majority."

24

25 **Section 5.** Section 41-5-604, MCA, is amended to read:

26 **"41-5-604. Disposition of records.** (1) All Except as provided in subsections (2) and (5), youth  
27 court records and law enforcement records ~~except fingerprints and photographs~~ pertaining to a youth  
28 ~~coming~~ under this chapter ~~shall~~ must be physically sealed when the youth reaches the age of 18 years.

29 (2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's  
30 18th birthday, the ~~above~~ records and files ~~shall~~ referred to in subsection (1) must be physically sealed upon

1 termination of the extended jurisdiction.

2 (3) Upon the physical sealing of the records pertaining to a youth pursuant to this section, ~~any an~~  
3 agency or department that has in its possession copies of the sealed records ~~se-sealed~~ shall also seal or  
4 destroy ~~such its~~ copies of the records. Anyone violating the provisions of this subsection ~~shall be~~ is subject  
5 to contempt of court.

6 (4) ~~Nothing herein contained~~ This section shall does not prohibit the destruction of ~~such~~ records  
7 with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

8 (5) The requirements for sealed records in this section ~~shall do~~ not apply to fingerprints and  
9 photographs, youth traffic records, or to records ~~directly related to an offense to which access must be~~  
10 ~~allowed under 41-5-604~~ in any case in which the youth did not fulfill all requirements of the court's  
11 judgment or disposition."

12

13 **Section 6.** Section 46-24-207, MCA, is amended to read:

14 **"46-24-207. Victims and witnesses of juvenile felony offenses -- consultation -- notification of**  
15 **proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided  
16 under this chapter to a victim or witness of a crime ~~must are~~ also be provided to the victim or witness of  
17 a juvenile felony offense.

18 (2) ~~The attorney general shall assure that a victim or witness of a juvenile felony offense is~~  
19 ~~provided the same services and assistance required under this chapter for the victim or witness of a crime.~~  
20 In a proceeding filed under Title 41, chapter 5, part 5, the county attorney or a designee shall consult with  
21 the victim of a juvenile felony offense or, in the case of a minor victim or a homicide victim, with the  
22 victim's family regarding the disposition of the case, including:

- 23 (a) a dismissal of the petition filed under 41-5-501;  
24 (b) a reduction of the charge to misdemeanor;  
25 (c) the release of the youth from detention or shelter care pending the adjudicatory hearing; and  
26 (d) the disposition of the youth.

27 (3) (a) Whenever possible, a person described in subsection (3)(b) who provides the youth court  
28 with a current address and telephone number must receive prompt advance notification of youth court case  
29 proceedings, including:

- 30 (i) the filing of a petition under 41-5-501;

1           (ii) the release of the youth from detention or shelter care; and

2           (iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent  
3 decree under 41-5-524, the setting of a date for the adjudicatory hearing under 41-5-521, the setting of  
4 a date for the dispositional hearing under 41-5-522, the disposition made, and the release of the youth from  
5 a youth correctional facility.

6           (b) A person entitled to notification under this subsection (3) must be a victim of a juvenile felony  
7 offense, an adult relative of the victim if the victim is a minor, or an adult relative of a homicide victim.

8           (c) The court shall provide to the department the list of people entitled to notification under this  
9 subsection (3), and the department is responsible to provide the notification.

10          (4) For purposes of this section, "juvenile felony offense" means an offense committed by a  
11 juvenile that, if committed by an adult, would constitute a felony offense. The term includes any offense  
12 for which a juvenile may be declared a serious juvenile offender, as defined in 41-5-103."

13  
14          **Section 7.** Section 52-2-211, MCA, is amended to read:

15          **"52-2-211. County interdisciplinary child information team.** (1) The following persons and agencies  
16 operating within a county may by written agreement form a county interdisciplinary child information team:

- 17           (a) the youth court;
- 18           (b) the county attorney;
- 19           (c) the department of family services;
- 20           (d) the county superintendent of schools;
- 21           (e) the sheriff;
- 22           (f) the chief of any police force; and
- 23           (g) the superintendents of public school districts.

24           (2) The persons and agencies signing a written agreement under subsection (1) may by majority  
25 vote allow the following persons to sign the written agreement and join the information team:

- 26           (a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental  
27 health care;
- 28           (b) entities operating private elementary and secondary schools;
- 29           (c) attorneys; and
- 30           (d) a person or entity that has or may have a legitimate interest in one or more children that the

1 information team will serve.

2 (3) The members of the information team or their designees may form one or more auxiliary teams  
3 for the purpose of providing service to a single child, a group of children, or children with a particular type  
4 of problem or for any other purpose. Auxiliary teams are subject to the written agreement.

5 (4) The purpose of the team and written agreement is to facilitate the exchange and sharing of  
6 information that one or more team members may be able to use in serving a child in the course of their  
7 professions and occupations, including but not limited to abused, neglected, dependent, and delinquent  
8 children and youth in need of supervision. Information regarding a child that a team member supplies to  
9 other team members or that is disseminated to a team member under 41-3-205, ~~41-5-602~~, or 41-5-603(2)  
10 may not be disseminated beyond the team.

11 (5) The terms of the written agreement must provide for the rules under which the team will  
12 operate, the method by which information will be shared, distributed, and managed, and any other matters  
13 necessary to the purpose and functions of the team."  
14

15 NEW SECTION. **Section 8. Repealer.** Sections 41-5-601 and 41-5-602, MCA, are repealed.

16  
17 NEW SECTION. **Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as  
18 an integral part of Title 41, chapter 5, part 6, and the provisions of Title 41, chapter 5, part 6, apply to  
19 [section 1].

20 (2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 10, part 5, and the  
21 provisions of Title 3, chapter 10, part 5, apply to [section 2].  
22

23 NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval.

24 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0429, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising youth court confidentiality provisions; providing that certain youth case records must be sealed when the court's judgments have been fulfilled; clarifying that justice's court records related to a youth continue to be a matter of public record after the youth reaches 18; requiring notification of and consultation with victims of juvenile felony offenses.

ASSUMPTIONS:

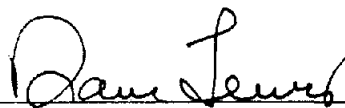
1. The bill will have no material fiscal impact on the state judiciary.
2. The Probation and Parole Bureau of the Department of Corrections and Human Services will still be able to access youth files for pre-investigation reports with a court order. Therefore, the bill will have no fiscal impact on the department.
3. The bill will not change the duties or responsibilities of the Department of Family Services; therefore, it will have no fiscal impact on the department.

FISCAL IMPACT:

None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The bill is not expected to have a material fiscal impact on local government expenditures.

 2-10-95

DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 \_\_\_\_\_  
BRAD MOLNAR, PRIMARY SPONSOR      DATE

Fiscal Note for HB0429, as introduced

HB 429

APPROVED BY COM  
ON JUDICIARY

1 HOUSE BILL NO. 429

2 INTRODUCED BY MOLNAR

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING YOUTH COURT CONFIDENTIALITY  
5 PROVISIONS; PROVIDING THAT CERTAIN YOUTH CASE RECORDS MUST BE SEALED WHEN THE  
6 COURT'S JUDGMENTS HAVE BEEN FULFILLED; CLARIFYING THAT JUSTICE'S COURT RECORDS  
7 RELATED TO A YOUTH CONTINUE TO BE A MATTER OF PUBLIC RECORD AFTER THE YOUTH REACHES  
8 18 YEARS OF AGE; REQUIRING NOTIFICATION OF AND CONSULTATION WITH VICTIMS OF JUVENILE  
9 FELONY OFFENSES; AMENDING SECTIONS 41-5-521, 41-5-603, 41-5-604, 46-24-207, AND 52-2-211,  
10 MCA; REPEALING SECTIONS 41-5-601 AND 41-5-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
11 DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 NEW SECTION. **Section 1. Youth court ~~matters~~ RECORDS -- public record.** ~~All~~ EXCEPT AS  
16 PROVIDED IN 41-5-603, ALL youth court ~~matters~~ RECORDS on file with the clerk of court related to a  
17 youth who is alleged or found to be a youth in need of supervision or a delinquent youth are a public record  
18 until the record is sealed under 41-5-604.

19  
20 NEW SECTION. **Section 2. Youth matters cited in justice's court -- public record.** All filed matters  
21 related to a youth cited in a justice's court are a public record.

22  
23 **Section 3.** Section 41-5-521, MCA, is amended to read:

24 **"41-5-521. Adjudicatory hearing.** (1) Prior to any adjudicatory hearing, the court shall determine  
25 whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses  
26 alleged in the petition, the youth, ~~his~~ or the youth's parent, guardian, or attorney may demand a jury trial  
27 on ~~such~~ the contested offenses. In the absence of ~~such~~ a demand, a jury trial is waived. If the youth denies  
28 some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth  
29 court judge. The adjudicatory hearing ~~shall~~ must be set immediately and accorded a preferential priority.

30 (2) An adjudicatory hearing ~~shall~~ must be held to determine whether the contested offenses are



1 supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in  
 2 need of supervision. If the hearing is before a jury, the jury's function ~~shall be~~ is to determine whether the  
 3 youth committed the contested offenses. If the hearing is before the youth court judge without a jury, the  
 4 judge shall make and record ~~his~~ findings on all issues. If the allegations of the petitions are not established  
 5 at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

6 (3) An adjudicatory hearing ~~shall~~ must be recorded verbatim by whatever means the court  
 7 considers appropriate.

8 (4) The youth charged in a petition must be present at the hearing and, if brought from detention  
 9 to the hearing, may not appear clothed in institutional clothing.

10 (5) In a hearing on a petition under this section, the general public may not be excluded ~~when the~~  
 11 ~~hearing is held on a contested offense to which publicity must be allowed under subsection (2) of~~  
 12 ~~41-5-601, EXCEPT THAT IN THE COURT'S DISCRETION, THE GENERAL PUBLIC MAY BE EXCLUDED IF~~  
 13 THE PETITION DOES NOT ALLEGE THAT THE YOUTH IS DELINQUENT.

14 (6) If, on the basis of a valid admission by a youth of the allegations of the petition or after the  
 15 hearing required by this section, a youth is found to be a delinquent youth or a youth in need of  
 16 supervision, the court shall schedule a dispositional hearing under this chapter.

17 (7) When a jury trial is required in a case, it may be held before a jury selected as provided in Title  
 18 25, chapter 7, part 2, and in Rule 47, M.R.Civ.P., Rule 47."

19

20 **Section 4.** Section 41-5-603, MCA, is amended to read:

21 **"41-5-603. Youth court and department records.** (1) ~~Youth~~ Except as provided in subsection (2),  
 22 all youth court and youth court related department records on file with the clerk of court, including social,  
 23 medical, and psychological records, reports of preliminary inquiries, predispositional studies, and supervision  
 24 records of probationers petitions, motions, other filed pleadings, court findings, verdicts, orders, and  
 25 decrees, are open to public inspection prior to the sealing of until the records are sealed under 41-5-604.

26 (2) Social, medical, and psychological records, predispositional studies, and supervision records  
 27 of probationers, AND ANY REPORT, CHARGE, OR ALLEGATION THAT IS NOT ADJUDICATED PURSUANT  
 28 TO THIS CHAPTER are open only to the following:

29 (a) the youth court and its professional staff;

30 (b) representatives of any agency providing supervision and having legal custody of a youth;

1 (c) any other person, by order of the court, having a legitimate interest in the case or in the work  
2 of the court;

3 (d) any court and its probation and other professional staff or the attorney for a convicted party  
4 who had been a party to proceedings in the youth court when considering the sentence to be imposed upon  
5 ~~such~~ the party;

6 (e) the county attorney;

7 (f) the youth who is the subject of the report or record, after ~~he has been emancipated~~  
8 emancipation or ~~reaches~~ reaching the age of majority;

9 (g) a member of a county interdisciplinary child information team formed under 52-2-211 who is  
10 not listed in this subsection ~~(1)~~ (2); and

11 (h) members of a local interagency staffing group provided for in 52-2-203.

12 ~~(2)~~(3) All or any part of records information secured from records listed in subsection ~~(1)~~ (2) of this  
13 ~~section~~, when presented to and used by the court in a proceeding under this chapter, ~~shall~~ must also be  
14 made available to the counsel for the parties to the proceedings.

15 ~~(3) Petitions, motions, and other pleadings filed in a case, including findings, verdicts, orders, and~~  
16 ~~decrees, shall be open to public inspection only when related to an offense for which access must be~~  
17 ~~allowed under 41-5-601.~~

18 ~~(4) All information obtained in discharge of an official duty by any officer or other employee of the~~  
19 ~~youth court or the department shall be privileged and shall not be disclosed to anyone other than the judge~~  
20 ~~and others entitled under this chapter to receive such information, unless otherwise ordered by the judge.~~

21 ~~(5)~~(4) After youth court and department records, reports of preliminary inquiries, predispositional  
22 studies, and supervision records of probationers are sealed, they are not open to inspection except, upon  
23 order of the youth court, for good cause to:

24 (a) those persons and agencies listed in subsection ~~(1)~~ (2); and

25 (b) adult probation professional staff preparing a presentence report on a youth who has reached  
26 the age of majority."

27  
28 **Section 5.** Section 41-5-604, MCA, is amended to read:

29 "**41-5-604. Disposition of records.** (1) All Except as provided in subsections (2) and (5), youth  
30 court records and law enforcement records ~~except fingerprints and photographs~~ pertaining to a youth

1 ~~coming~~ under this chapter ~~shall~~ must be physically sealed when the youth reaches the age of 18 years.

2 (2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's  
3 18th birthday, the ~~above~~ records and files ~~shall~~ referred to in subsection (1) must be physically sealed upon  
4 termination of the extended jurisdiction.

5 (3) Upon the physical sealing of the records pertaining to a youth pursuant to this section, ~~any an~~  
6 agency or department that has in its possession copies of the sealed records ~~so sealed~~ shall also seal or  
7 destroy ~~such its~~ copies of the records. Anyone violating the provisions of this subsection ~~shall be~~ is subject  
8 to contempt of court.

9 (4) ~~Nothing herein contained~~ This section shall does not prohibit the destruction of ~~such~~ records  
10 with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

11 (5) The requirements for sealed records in this section ~~shall do~~ not apply to fingerprints and  
12 photographs, youth traffic records, or to records ~~directly related to an offense to which access must be~~  
13 ~~allowed under 41-5-601 in any case in which the youth did not fulfill all requirements of the court's~~  
14 judgment or disposition."

15

16 **Section 6.** Section 46-24-207, MCA, is amended to read:

17 "**46-24-207. Victims and witnesses of juvenile felony offenses -- consultation -- notification of**  
18 **proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided  
19 under this chapter to a victim or witness of a crime ~~must~~ are also be provided to the victim or witness of  
20 a juvenile felony offense.

21 (2) ~~The attorney general shall assure that a victim or witness of a juvenile felony offense is~~  
22 ~~provided the same services and assistance required under this chapter for the victim or witness of a crime.~~  
23 In a proceeding filed under Title 41, chapter 5, part 5, the county attorney or a designee shall consult with  
24 the victim of a juvenile felony offense or, in the case of a minor victim or a homicide victim, with the  
25 victim's family regarding the disposition of the case, including:

- 26 (a) a dismissal of the petition filed under 41-5-501;  
27 (b) a reduction of the charge to misdemeanor;  
28 (c) the release of the youth from detention or shelter care pending the adjudicatory hearing; and  
29 (d) the disposition of the youth.

30 (3) (a) Whenever possible, a person described in subsection (3)(b) who provides the youth court

1 with a current address and telephone number must receive prompt advance notification of youth court case  
 2 proceedings, including:

3 (i) the filing of a petition under 41-5-501;

4 (ii) the release of the youth from detention or shelter care; and

5 (iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent  
 6 decree under 41-5-524, the setting of a date for the adjudicatory hearing under 41-5-521, the setting of  
 7 a date for the dispositional hearing under 41-5-522, the disposition made, and the release of the youth from  
 8 a youth correctional facility.

9 (b) A person entitled to notification under this subsection (3) must be a victim of a juvenile felony  
 10 offense, an adult relative of the victim if the victim is a minor, or an adult relative of a homicide victim.

11 (c) The court shall provide to the department the list of people entitled to notification under this  
 12 subsection (3), and the department is responsible to provide the notification.

13 (4) For purposes of this section, "juvenile felony offense" means an offense committed by a  
 14 juvenile that, if committed by an adult, would constitute a felony offense. The term includes any offense  
 15 for which a juvenile may be declared a serious juvenile offender, as defined in 41-5-103."  
 16

17 **Section 7.** Section 52-2-211, MCA, is amended to read:

18 **"52-2-211. County interdisciplinary child information team.** (1) The following persons and agencies  
 19 operating within a county may by written agreement form a county interdisciplinary child information team:

20 (a) the youth court;

21 (b) the county attorney;

22 (c) the department of family services;

23 (d) the county superintendent of schools;

24 (e) the sheriff;

25 (f) the chief of any police force; and

26 (g) the superintendents of public school districts.

27 (2) The persons and agencies signing a written agreement under subsection (1) may by majority  
 28 vote allow the following persons to sign the written agreement and join the information team:

29 (a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental  
 30 health care;

- 1 (b) entities operating private elementary and secondary schools;  
2 (c) attorneys; and  
3 (d) a person or entity that has or may have a legitimate interest in one or more children that the  
4 information team will serve.

5 (3) The members of the information team or their designees may form one or more auxiliary teams  
6 for the purpose of providing service to a single child, a group of children, or children with a particular type  
7 of problem or for any other purpose. Auxiliary teams are subject to the written agreement.

8 (4) The purpose of the team and written agreement is to facilitate the exchange and sharing of  
9 information that one or more team members may be able to use in serving a child in the course of their  
10 professions and occupations, including but not limited to abused, neglected, dependent, and delinquent  
11 children and youth in need of supervision. Information regarding a child that a team member supplies to  
12 other team members or that is disseminated to a team member under 41-3-205, ~~41-5-602~~, or 41-5-603(2)  
13 may not be disseminated beyond the team.

14 (5) The terms of the written agreement must provide for the rules under which the team will  
15 operate, the method by which information will be shared, distributed, and managed, and any other matters  
16 necessary to the purpose and functions of the team."  
17

18 **NEW SECTION. Section 8. Repealer.** Sections 41-5-601 and 41-5-602, MCA, are repealed.  
19

20 **NEW SECTION. Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as  
21 an integral part of Title 41, chapter 5, part 6, and the provisions of Title 41, chapter 5, part 6, apply to  
22 [section 1].

23 (2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 10, part 5, and the  
24 provisions of Title 3, chapter 10, part 5, apply to [section 2].  
25

26 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.  
27

-END-

## 1 HOUSE BILL NO. 429

2 INTRODUCED BY MOLNAR

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING YOUTH COURT CONFIDENTIALITY  
5 PROVISIONS; PROVIDING THAT CERTAIN YOUTH CASE RECORDS MUST BE SEALED WHEN THE  
6 COURT'S JUDGMENTS HAVE BEEN FULFILLED; CLARIFYING THAT JUSTICE'S COURT RECORDS  
7 RELATED TO A YOUTH CONTINUE TO BE A MATTER OF PUBLIC RECORD AFTER THE YOUTH REACHES  
8 18 YEARS OF AGE; REQUIRING NOTIFICATION OF AND CONSULTATION WITH VICTIMS OF JUVENILE  
9 FELONY OFFENSES; AMENDING SECTIONS 41-5-521, 41-5-603, 41-5-604, 46-24-207, AND 52-2-211,  
10 MCA; REPEALING SECTIONS 41-5-601 AND 41-5-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
11 DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

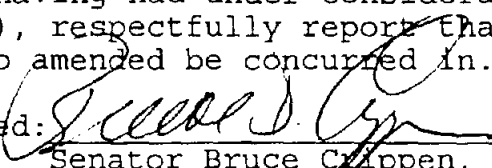
THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 15, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 429 (third reading copy -- blue), respectfully report that HB 429 be amended as follows and as so amended be concurred in.

Signed:   
Senator Bruce Chappin, Chair

That such amendments read:

1. Page 1, line 20.

Following: "record."

Strike: "All"

Insert: "Except as provided in 41-5-604, all"

2. Page 6, line 25.

Insert: "NEW SECTION. Section 10. Coordination instruction. If both [this act] and House Bill No. 551 are passed and approved and if both include a section that amends 41-5-604, then 41-5-604 is intended to read:

Section 1. Section 41-5-604, MCA, is amended to read:

"41-5-604. Disposition of records. (1) All Except as provided in subsections (2) and (5), youth court records and law enforcement records ~~except fingerprints and photographs~~ pertaining to a youth ~~coming under~~ covered by this chapter ~~shall~~ must be physically sealed when the youth reaches ~~the~~ age of 18 years of age.

(2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the ~~above~~ records and files ~~shall not exempt from sealing~~ under subsection (5) must be physically sealed upon termination of the extended jurisdiction.

(3) Upon the physical sealing of the records pertaining to a youth pursuant to this section, ~~any~~ an agency or department that has in its possession copies of the sealed records ~~so sealed~~ shall also seal or destroy ~~such~~ the copies of the records. Anyone violating the provisions of this subsection ~~shall be~~ is subject to contempt of court.

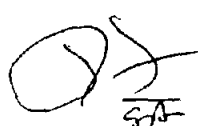
(4) ~~Nothing herein contained shall~~ This section does not prohibit the destruction of ~~such~~ records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(5) The requirements for sealed records in this section ~~shall do not~~ do not apply to fingerprints, DNA records, photographs, or youth traffic records or to records ~~directly related to an offense to which access must be allowed under 41-5-604 in any case in which the youth did not fulfill all requirements of the court's judgment or disposition.~~""

Renumber: subsequent section

-END-

HB 429

  
SA  
Amd. Coord.  
Sec. of Senate

Sen. HALLISAN  
Senator Carrying Bill

SENATE

## 1 HOUSE BILL NO. 429

2 INTRODUCED BY MOLNAR

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING YOUTH COURT CONFIDENTIALITY  
 5 PROVISIONS; PROVIDING THAT CERTAIN YOUTH CASE RECORDS MUST BE SEALED WHEN THE  
 6 COURT'S JUDGMENTS HAVE BEEN FULFILLED; CLARIFYING THAT JUSTICE'S COURT RECORDS  
 7 RELATED TO A YOUTH CONTINUE TO BE A MATTER OF PUBLIC RECORD AFTER THE YOUTH REACHES  
 8 18 YEARS OF AGE; REQUIRING NOTIFICATION OF AND CONSULTATION WITH VICTIMS OF JUVENILE  
 9 FELONY OFFENSES; AMENDING SECTIONS 41-5-521, 41-5-603, 41-5-604, 46-24-207, AND 52-2-211,  
 10 MCA; REPEALING SECTIONS 41-5-601 AND 41-5-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 11 DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
 15 NEW SECTION. **Section 1. Youth court matters RECORDS -- public record. ~~ALL~~ EXCEPT AS**  
 16 **PROVIDED IN 41-5-603, ALL** youth court ~~matters~~ **RECORDS** on file with the clerk of court related to a  
 17 youth who is alleged or found to be a youth in need of supervision or a delinquent youth are a public record  
 18 until the record is sealed under 41-5-604.

19  
 20 NEW SECTION. **Section 2. Youth matters cited in justice's court -- public record. ~~ALL~~ EXCEPT AS**  
 21 **PROVIDED IN 41-5-604, ALL** filed matters related to a youth cited in a justice's court are a public record.

22  
 23 **Section 3.** Section 41-5-521, MCA, is amended to read:

24 **"41-5-521. Adjudicatory hearing.** (1) Prior to any adjudicatory hearing, the court shall determine  
 25 whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses  
 26 alleged in the petition, the youth, ~~his~~ or the youth's parent, guardian, or attorney may demand a jury trial  
 27 on ~~such~~ the contested offenses. In the absence of ~~such~~ a demand, a jury trial is waived. If the youth denies  
 28 some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth  
 29 court judge. The adjudicatory hearing ~~shall~~ must be set immediately and accorded a preferential priority.

30 (2) An adjudicatory hearing ~~shall~~ must be held to determine whether the contested offenses are



1 supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in  
 2 need of supervision. If the hearing is before a jury, the jury's function ~~shall be~~ is to determine whether the  
 3 youth committed the contested offenses. If the hearing is before the youth court judge without a jury, the  
 4 judge shall make and record ~~his~~ findings on all issues. If the allegations of the petitions are not established  
 5 at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

6 (3) An adjudicatory hearing ~~shall~~ must be recorded verbatim by whatever means the court  
 7 considers appropriate.

8 (4) The youth charged in a petition must be present at the hearing and, if brought from detention  
 9 to the hearing, may not appear clothed in institutional clothing.

10 (5) In a hearing on a petition under this section, the general public may not be excluded ~~when the~~  
 11 ~~hearing is held on a contested offense to which publicity must be allowed under subsection (2) of~~  
 12 41-5-604, EXCEPT THAT IN THE COURT'S DISCRETION, THE GENERAL PUBLIC MAY BE EXCLUDED IF  
 13 THE PETITION DOES NOT ALLEGE THAT THE YOUTH IS DELINQUENT.

14 (6) If, on the basis of a valid admission by a youth of the allegations of the petition or after the  
 15 hearing required by this section, a youth is found to be a delinquent youth or a youth in need of  
 16 supervision, the court shall schedule a dispositional hearing under this chapter.

17 (7) When a jury trial is required in a case, it may be held before a jury selected as provided in Title  
 18 25, chapter 7, part 2, and in Rule 47, M.R.Civ.P., Rule 47."

19  
 20 **Section 4.** Section 41-5-603, MCA, is amended to read:

21 "**41-5-603. Youth court and department records.** (1) ~~Youth~~ Except as provided in subsection (2),  
 22 all youth court and youth court related department records on file with the clerk of court, including social,  
 23 medical, and psychological records, reports of preliminary inquiries, predispositional studies, and supervision  
 24 records of probationers petitions, motions, other filed pleadings, court findings, verdicts, orders, and  
 25 decrees, are open to public inspection prior to the sealing of until the records are sealed under 41-5-604.

26 (2) Social, medical, and psychological records, predispositional studies, and supervision records  
 27 of probationers, AND ANY REPORT, CHARGE, OR ALLEGATION THAT IS NOT ADJUDICATED PURSUANT  
 28 TO THIS CHAPTER are open only to the following:

29 (a) the youth court and its professional staff;

30 (b) representatives of any agency providing supervision and having legal custody of a youth;

1 (c) any other person, by order of the court, having a legitimate interest in the case or in the work  
2 of the court;

3 (d) any court and its probation and other professional staff or the attorney for a convicted party  
4 who had been a party to proceedings in the youth court when considering the sentence to be imposed upon  
5 ~~such~~ the party;

6 (e) the county attorney;

7 (f) the youth who is the subject of the report or record, after ~~he has been emancipated~~  
8 emancipation or reaches reaching the age of majority;

9 (g) a member of a county interdisciplinary child information team formed under 52-2-211 who is  
10 not listed in this subsection ~~(1)~~ (2); and

11 (h) members of a local interagency staffing group provided for in 52-2-203.

12 ~~(2)(3)~~ All or any part of records information secured from records listed in subsection ~~(1)~~ (2) of this  
13 ~~section~~, when presented to and used by the court in a proceeding under this chapter, shall must also be  
14 made available to the counsel for the parties to the proceedings.

15 ~~(3) Petitions, motions, and other pleadings filed in a case, including findings, verdicts, orders, and~~  
16 ~~decrees, shall be open to public inspection only when related to an offense for which access must be~~  
17 ~~allowed under 41-5-601.~~

18 ~~(4) All information obtained in discharge of an official duty by any officer or other employee of the~~  
19 ~~youth court or the department shall be privileged and shall not be disclosed to anyone other than the judge~~  
20 ~~and others entitled under this chapter to receive such information, unless otherwise ordered by the judge.~~

21 ~~(5)(4)~~ After youth court and department records, reports of preliminary inquiries, predispositional  
22 studies, and supervision records of probationers are sealed, they are not open to inspection except, upon  
23 order of the youth court, for good cause to:

24 (a) those persons and agencies listed in subsection ~~(1)~~ (2); and

25 (b) adult probation professional staff preparing a presentence report on a youth who has reached  
26 the age of majority."

27

28 **Section 5.** Section 41-5-604, MCA, is amended to read:

29 **"41-5-604. Disposition of records.** (1) All Except as provided in subsections (2) and (5), youth  
30 court records and law enforcement records ~~except fingerprints and photographs~~ pertaining to a youth

1 coming under this chapter ~~shall~~ must be physically sealed when the youth reaches the age of 18 years.

2 (2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's  
3 18th birthday, the ~~above~~ records and files ~~shall~~ referred to in subsection (1) must be physically sealed upon  
4 termination of the extended jurisdiction.

5 (3) Upon the physical sealing of the records pertaining to a youth pursuant to this section, ~~any an~~  
6 agency or department that has in its possession copies of the sealed records ~~so sealed~~ shall also seal or  
7 destroy ~~such its~~ copies of the records. Anyone violating the provisions of this subsection ~~shall be~~ is subject  
8 to contempt of court.

9 (4) ~~Nothing herein contained~~ This section shall does not prohibit the destruction of ~~such~~ records  
10 with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

11 (5) The requirements for sealed records in this section ~~shall do~~ do not apply to fingerprints and  
12 photographs, youth traffic records, or to records ~~directly related to an offense to which access must be~~  
13 ~~allowed under 41-5-601 in any case in which the youth did not fulfill all requirements of the court's~~  
14 judgment or disposition."

15  
16 **Section 6.** Section 46-24-207, MCA, is amended to read:

17 "**46-24-207. Victims and witnesses of juvenile felony offenses -- consultation -- notification of**  
18 **proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided  
19 under this chapter to a victim or witness of a crime ~~must~~ are also ~~be~~ provided to the victim or witness of  
20 a juvenile felony offense.

21 (2) ~~The attorney general shall assure that a victim or witness of a juvenile felony offense is~~  
22 ~~provided the same services and assistance required under this chapter for the victim or witness of a crime.~~  
23 In a proceeding filed under Title 41, chapter 5, part 5, the county attorney or a designee shall consult with  
24 the victim of a juvenile felony offense or, in the case of a minor victim or a homicide victim, with the  
25 victim's family regarding the disposition of the case, including:

26 (a) a dismissal of the petition filed under 41-5-501;

27 (b) a reduction of the charge to misdemeanor;

28 (c) the release of the youth from detention or shelter care pending the adjudicatory hearing; and

29 (d) the disposition of the youth.

30 (3) (a) Whenever possible, a person described in subsection (3)(b) who provides the youth court

1 with a current address and telephone number must receive prompt advance notification of youth court case  
2 proceedings, including:

3 (i) the filing of a petition under 41-5-501;

4 (ii) the release of the youth from detention or shelter care; and

5 (iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent  
6 decree under 41-5-524, the setting of a date for the adjudicatory hearing under 41-5-521, the setting of  
7 a date for the dispositional hearing under 41-5-522, the disposition made, and the release of the youth from  
8 a youth correctional facility.

9 (b) A person entitled to notification under this subsection (3) must be a victim of a juvenile felony  
10 offense, an adult relative of the victim if the victim is a minor, or an adult relative of a homicide victim.

11 (c) The court shall provide to the department the list of people entitled to notification under this  
12 subsection (3), and the department is responsible to provide the notification.

13 (4) For purposes of this section, "juvenile felony offense" means an offense committed by a  
14 juvenile that, if committed by an adult, would constitute a felony offense. The term includes any offense  
15 for which a juvenile may be declared a serious juvenile offender, as defined in 41-5-103."  
16

17 **Section 7.** Section 52-2-211, MCA, is amended to read:

18 **"52-2-211. County interdisciplinary child information team.** (1) The following persons and agencies  
19 operating within a county may by written agreement form a county interdisciplinary child information team:

20 (a) the youth court;

21 (b) the county attorney;

22 (c) the department of family services;

23 (d) the county superintendent of schools;

24 (e) the sheriff;

25 (f) the chief of any police force; and

26 (g) the superintendents of public school districts.

27 (2) The persons and agencies signing a written agreement under subsection (1) may by majority  
28 vote allow the following persons to sign the written agreement and join the information team:

29 (a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental  
30 health care;

1 (b) entities operating private elementary and secondary schools;

2 (c) attorneys; and

3 (d) a person or entity that has or may have a legitimate interest in one or more children that the  
4 information team will serve.

5 (3) The members of the information team or their designees may form one or more auxiliary teams  
6 for the purpose of providing service to a single child, a group of children, or children with a particular type  
7 of problem or for any other purpose. Auxiliary teams are subject to the written agreement.

8 (4) The purpose of the team and written agreement is to facilitate the exchange and sharing of  
9 information that one or more team members may be able to use in serving a child in the course of their  
10 professions and occupations, including but not limited to abused, neglected, dependent, and delinquent  
11 children and youth in need of supervision. Information regarding a child that a team member supplies to  
12 other team members or that is disseminated to a team member under 41-3-205, ~~41-5-602~~, or 41-5-603(2)  
13 may not be disseminated beyond the team.

14 (5) The terms of the written agreement must provide for the rules under which the team will  
15 operate, the method by which information will be shared, distributed, and managed, and any other matters  
16 necessary to the purpose and functions of the team."  
17

18 **NEW SECTION. Section 8. Repealer.** Sections 41-5-601 and 41-5-602, MCA, are repealed.  
19

20 **NEW SECTION. Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as  
21 an integral part of Title 41, chapter 5, part 6, and the provisions of Title 41, chapter 5, part 6, apply to  
22 [section 1].

23 (2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 10, part 5, and the  
24 provisions of Title 3, chapter 10, part 5, apply to [section 2].  
25

26 **NEW SECTION. SECTION 10. COORDINATION INSTRUCTION. IF BOTH [THIS ACT] AND HOUSE**  
27 **BILL NO. 551 ARE PASSED AND APPROVED AND IF BOTH INCLUDE A SECTION THAT AMENDS**  
28 **41-5-604, THEN 41-5-604 IS INTENDED TO READ:**

29 **"41-5-604. Disposition of records.** (1) ~~All~~ Except as provided in subsections (2) and (5), youth  
30 court records and law enforcement records ~~except fingerprints and photographs~~ pertaining to a youth

1 ~~coming under~~ covered by this chapter ~~shall~~ must be physically sealed when the youth reaches ~~the age of~~  
2 18 years of age.

3 (2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's  
4 18th birthday, the ~~above~~ records and files ~~shall~~ not exempt from sealing under subsection (5) must be  
5 physically sealed upon termination of the extended jurisdiction.

6 (3) Upon the physical sealing of the records pertaining to a youth pursuant to this section, ~~any~~ an  
7 agency or department that has in its possession copies of the sealed records ~~so sealed~~ shall also seal or  
8 destroy ~~such~~ the copies of the records. Anyone violating the provisions of this subsection ~~shall be~~ is subject  
9 to contempt of court.

10 (4) ~~Nothing herein contained shall~~ This section does not prohibit the destruction of ~~such~~ records  
11 with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

12 (5) The requirements for sealed records in this section ~~shall~~ do not apply to fingerprints, DNA  
13 records, photographs, or youth traffic records or to records ~~directly related to an offense to which access~~  
14 ~~must be allowed under 41-5-601~~ in any case in which the youth did not fulfill all requirements of the court's  
15 judgment or disposition."

16

17 NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

18

-END-