

1 HOUSE BILL NO. 116

2 INTRODUCED BY KAUFMANN

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DOMESTIC VIOLENCE FATALITY REVIEW
6 COMMISSION IN THE DEPARTMENT OF JUSTICE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
7 AND A TERMINATION DATE."

8

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

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11 NEW SECTION. **Section 1. Domestic violence fatality review commission -- confidentiality of**
12 **meetings and records -- criminal liability for unauthorized disclosure -- report to legislature.** (1) There
13 is a domestic violence fatality review commission in the department of justice.

14 (2) The commission shall:

15 (a) examine the trends and patterns of domestic violence-related fatalities in Montana;

16 (b) educate the public, service providers, and policymakers about domestic violence fatalities and
17 strategies for intervention and prevention; and18 (c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities
19 due to domestic violence.20 (3) The members of the commission, NOT TO EXCEED 18, are appointed by the attorney general from
21 among the following disciplines:22 ~~—— (a) an employee of the department of justice, office of victims services;~~23 ~~—— (b) a department of justice attorney who is familiar with domestic violence issues;~~24 ~~—— (c) an employee of the department of justice, forensic sciences division;~~25 ~~—— (d) an employee of the department of public health and human services;~~26 ~~—— (e) an employee of the department of corrections;~~27 ~~—— (f) a city attorney or county attorney with experience prosecuting domestic violence cases;~~28 ~~—— (g) a criminal defense attorney;~~29 ~~—— (h) a member of the Montana coalition against domestic and sexual violence or a member of a similar~~
30 ~~organization;~~

- 1 ~~—— (i) a representative of local law enforcement;~~
 2 ~~—— (j) a victim or survivor of domestic violence;~~
 3 ~~—— (k) a physician;~~
 4 ~~—— (l) a nurse or nurse practitioner;~~
 5 ~~—— (m) a justice of the peace or a judge of a municipal or city court;~~
 6 ~~—— (n) a district court judge;~~
 7 ~~—— (o) an enrolled member of a Montana Indian tribe;~~
 8 ~~—— (p) a representative from the Montana legal services association;~~
 9 ~~—— (q) a mediator or meeting facilitator; and~~
 10 ~~—— (r) a representative of a local domestic violence or sexual assault organization.~~
- 11 (A) REPRESENTATIVES FROM STATE DEPARTMENTS THAT ARE INVOLVED IN ISSUES OF DOMESTIC ABUSE;
 12 (B) REPRESENTATIVES OF PRIVATE ORGANIZATIONS THAT ARE INVOLVED IN ISSUES OF DOMESTIC ABUSE;
 13 (C) MEDICAL AND MENTAL HEALTH CARE PROVIDERS WHO ARE INVOLVED IN ISSUES OF DOMESTIC ABUSE;
 14 (D) REPRESENTATIVES FROM LAW ENFORCEMENT, THE JUDICIARY, AND THE STATE BAR OF MONTANA;
 15 (E) REPRESENTATIVES OF MONTANA INDIAN TRIBES;
 16 (F) OTHER CONCERNED CITIZENS; AND
 17 (G) A MEMBER OF THE LEGISLATURE WHO SERVES ON EITHER THE HOUSE JUDICIARY COMMITTEE OR THE SENATE
 18 JUDICIARY COMMITTEE.
- 19 (4) The members shall serve without compensation by the commission but are entitled to be reimbursed
 20 for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried
 21 officers or employees of this state or of any political subdivision of this state are entitled to their regular
 22 compensation. The provisions of 2-15-122 do not apply to the commission.
- 23 (5) The commission shall review fatalities that are not under investigation and fatalities in cases that
 24 have been adjudicated and have received a final judgment.
- 25 (6) Upon written request from the commission, a person who possesses information or records that are
 26 necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the
 27 commission with the information and records. A person who provides information or records upon request of the
 28 commission is not criminally or civilly liable for providing information or records in compliance with this section.
- 29 (7) The meetings and proceedings of the commission are confidential and are exempt from the
 30 provisions of Title 2, chapter 3.

1 (8) The records of the commission are confidential and are exempt from the provisions of Title 2,
2 chapter 6. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal
3 action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking
4 access. The commission shall disclose conclusions and recommendations upon request but may not disclose
5 information, records, or data that are otherwise confidential. The commission may not use the information,
6 records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

7 (9) The commission may require any person appearing before it to sign a confidentiality agreement
8 created by the commission in order to maintain the confidentiality of the proceedings. In addition, the
9 commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise
10 confidential information.

11 (10) A member of the commission who knowingly uses information obtained pursuant to subsection (6)
12 for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) ~~upon~~
13 ~~conviction shall be fined~~ IS SUBJECT TO A CIVIL PENALTY OF not more than \$500 ~~or imprisoned in the county jail~~
14 ~~for a term not to exceed 6 months, or both.~~

15 (11) The commission shall report its findings and recommendations in writing to the legislature, the
16 attorney general, the governor, and the chief justice of the Montana supreme court no later than the third
17 Tuesday in January of each year in which the legislature meets in regular session. The report must be made
18 available to the public through the office of the attorney general. The commission may issue data or other
19 information periodically, in addition to the biennial report.

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21 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
22 integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 1].

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

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26 NEW SECTION. SECTION 4. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2006.

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