

HOUSE BILL NO. 92
INTRODUCED BY B. LAWSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE LAW ENFORCEMENT AGENCY EMPLOYING A PEACE OFFICER WHO CITES A YOUTH FOR VIOLATING A STATUTE SHALL WITHIN 2 BUSINESS DAYS NOTIFY THE PARENT OR PARENTS OR THE GUARDIAN OF THE YOUTH; AND AMENDING SECTION 41-5-215, MCA."

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

Section 1. Section 41-5-215, MCA, is amended to read:

"41-5-215. Youth court and department records -- notification of school. (1) Reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, and orders and decrees on file with the clerk of court are public records and are open to public inspection until the records are sealed under 41-5-216.

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

- (a) the youth court and its professional staff;
 - (b) representatives of any agency providing supervision and having legal custody of a youth;
 - (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;
 - (d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon the party;
 - (e) the county attorney;
 - (f) the youth who is the subject of the report or record, after emancipation or reaching the age of majority;
 - (g) a member of a county interdisciplinary child information team formed under 52-2-211 who is not listed in this subsection (2);
 - (h) members of a local interagency staffing group provided for in 52-2-203;
 - (i) persons allowed access to the records referred to under 45-5-624(7); and
 - (j) persons allowed access under 42-3-203.
- (3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e) and subject to the provisions of subsection (3)(b), the youth court shall notify the school district that the youth presently attends or the school

district that the youth has applied to attend of a youth's suspected drug use or criminal activity if after an investigation has been completed:

(i) the youth has admitted the allegation or a petition has been filed with the youth court; and
(ii) a juvenile probation officer has reason to believe that a youth is currently involved with drug use or other criminal activity that has a bearing on the safety of children.

(b) Notification under subsection (3)(a) may not be given for status offenses.

(c) A school district may not refuse to accept the student if refusal violates the federal Individuals With Disabilities Education Act or the federal Americans With Disabilities Act of 1990.

(d) The law enforcement agency employing a peace officer who cites a youth for violating a statute shall notify the youth's parent or parents or guardian of the citation within 2 business days after the citation is issued.

(4) In all cases, a victim is entitled to all information concerning the identity and disposition of the youth, as provided in 41-5-1416.

(5) The identity of a youth who for the second or subsequent time admits violating or is adjudicated as having violated a statute must be disclosed by youth court officials to the administrative officials of the school in which the youth is a student. The administrative officials may enforce school disciplinary procedures that existed at the time of the admission or adjudication. The information may not be further disclosed and may not be made part of the student's permanent records.

(6) The school district may disclose, without consent, personally identifiable information from an education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving the information shall certify in writing to the school district that the information will not be disclosed to any other party, except as provided under state law, without the prior consent of the parent or guardian of the pupil.

(7) Any part of records information secured from records listed in subsection (2), when presented to and used by the court in a proceeding under this chapter, must also be made available to the counsel for the parties to the proceedings."

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