

HOUSE BILL NO. 234
INTRODUCED BY B. LAKE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES, FOR THE PURPOSES OF THE SAFETY OF PROPERTY APPRAISERS OF THE DEPARTMENT OF REVENUE, TO NOTIFY THE DEPARTMENT OF REVENUE OF PROPERTY BEING USED FOR CLANDESTINE PRODUCTION OF METHAMPHETAMINE DRUGS; AMENDING SECTION 44-5-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Notice by law enforcement to department of revenue regarding methamphetamine-contaminated property for safety of appraisers -- definition. (1) If a law enforcement agency determines with reasonable certainty that property is being used as a clandestine methamphetamine drug production site, the agency shall notify the department of revenue of that fact. The department may enter into an agreement with the agency for the confidentiality of the information provided by the agency concerning the use of the property. The agreement may apply to an individual piece or parcel of property or more than one piece or parcel. The department may use information that has been provided only for the purposes of the safety of a departmental property appraiser. Further dissemination by the department of revenue is subject to Title 44, chapter 5.

(2) As used in this section, "law enforcement agency" means a police department of an incorporated city or town or a county sheriff's office.

Section 2. Section 44-5-303, MCA, is amended to read:

"44-5-303. Dissemination of confidential criminal justice information -- procedure for dissemination through court. (1) Except as provided in [section 1] and subsections (2) through (4) of this section, dissemination of confidential criminal justice information is restricted to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure. Permissible dissemination of confidential criminal justice information under this subsection includes receiving investigative information from and sharing investigative information with a fire service agency or fire marshal concerning the criminal

investigation of a fire.

(2) If the prosecutor determines that dissemination of confidential criminal justice information would not jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a victim of the offense by the prosecutor or by the investigating law enforcement agency after consultation with the prosecutor.

(3) Unless otherwise ordered by a court, a person or criminal justice agency that accepts confidential criminal justice information assumes equal responsibility for the security of the information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential.

(4) The county attorney or the county attorney's designee is authorized to receive confidential criminal justice information for the purpose of cooperating with local fetal, infant, and child mortality review teams. The county attorney or the county attorney's designee may, in that person's discretion, disclose information determined necessary to the goals of the review team. The review team and the county attorney or the designee shall maintain the confidentiality of the information.

(5) (a) If a prosecutor receives a written request for release of confidential criminal justice information relating to a criminal investigation that has been terminated by declination of prosecution or relating to a criminal prosecution that has been completed by entry of judgment, dismissal, or acquittal, the prosecutor may file a declaratory judgment action with the district court pursuant to the provisions of the Uniform Declaratory Judgments Act, Title 27, chapter 8, for release of the information. The prosecutor shall:

(i) file the action in the name of the city or county that the prosecutor represents and describe the city's or county's interest;

(ii) list as defendants anyone known to the prosecutor who has requested the confidential criminal justice information and anyone affected by release of the information;

(iii) request that the prosecutor be allowed to deposit the investigative file and any edited version of the file with the court pursuant to the provisions of Title 27, chapter 8;

(iv) request the court to:

(A) conduct an in camera review of the confidential criminal justice information to determine whether the demands of individual privacy do not clearly exceed the merits of public disclosure; and

(B) order the release to the requesting party defendant of whatever portion of the investigative information or edited version of the information the court determines appropriate.

(b) In making an order authorizing the release of information under subsection (5)(a), the court shall make a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure

and authorize, upon payment of reasonable reproduction costs, the release of appropriate portions of the edited or complete confidential criminal justice information to persons who request the information.

(c) In an action filed for the court-ordered release of confidential criminal justice information under subsection (5)(a), the parties shall bear their respective costs and attorney fees.

(6) The procedures set forth in subsection (5) are not an exclusive remedy. A person or organization may file any action for dissemination of information that the person or organization considers appropriate and permissible."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 44, chapter 2, part 1, and the provisions of Title 44, chapter 2, part 1, apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability.** [This act] applies to a piece or parcel of property that is determined with reasonable certainty by a law enforcement agency, as defined in [section 1], on or after [the effective date of this act] as being used for the clandestine production of methamphetamine drugs.

- END -

