

HOUSE BILL NO. 649
INTRODUCED BY J. SINRUD

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO DEVELOP COUNTY INTERDISCIPLINARY CHILD PROTECTIVE TEAMS; CLARIFYING NOTIFICATION REQUIREMENTS FOR REPORTS OF CHILD ABUSE OR NEGLECT; REQUIRING COOPERATION BETWEEN LOCAL LAW ENFORCEMENT AGENCIES AND THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES IN INVESTIGATING REPORTS OF CHILD ABUSE AND NEGLECT AND CONDUCTING INTERVIEWS; REQUIRING THAT INTERVIEWS WITH CHILDREN INVOLVED IN CHILD ABUSE OR NEGLECT REPORTS BE CONDUCTED WITHOUT UNNECESSARY DELAY AND BY A MEMBER OF A COUNTY INTERDISCIPLINARY CHILD PROTECTIVE TEAM WHENEVER POSSIBLE; ESTABLISHING THAT AN AUDIOTAPED OR VIDEOTAPED INTERVIEW OF A CHILD INVOLVED IN A CHILD ABUSE OR NEGLECT REPORT BE PROVIDED TO THE FAMILY ONLY IF DOING SO DOES NOT THREATEN THE HEALTH OR SAFETY OF THE CHILD OR IS NOT CONSIDERED CONFIDENTIAL INFORMATION; REQUIRING THE COUNTY SHERIFF'S OFFICE TO RUN LOCAL AND NATIONAL CRIMINAL BACKGROUND CHECKS FOR THE DEPARTMENT; AND AMENDING SECTIONS 41-3-108, 41-3-202, AND 52-2-211, MCA."

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

Section 1. Section 41-3-108, MCA, is amended to read:

"41-3-108. Child interdisciplinary child protective teams. ~~The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent~~ Within 6 months after [the effective date of this act] each county shall establish an interdisciplinary child protective teams team. These teams ~~may~~ shall assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family and shall develop protocols and procedures for responding to reports of child abuse and neglect pursuant to 41-3-202. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

- (1) a social worker;
- (2) a member of a local law enforcement agency;
- (3) a representative of the medical profession;
- (4) a representative of a public school system;

(5) a county attorney or deputy county attorney; and

(6) if an Indian child or children are involved, someone, preferably an Indian person, who is knowledgeable about Indian culture and family matters."

Section 2. Section 41-3-202, MCA, is amended to read:

"41-3-202. Action on reporting. (1) Within 24 hours of receiving a credible report of abuse that involves an alleged violation of criminal law under Title 45 or a credible report of neglect that creates a substantial risk of death or serious bodily injury to a child pursuant to 45-5-207 or 45-5-208:

(a) the centralized intake bureau of the department shall notify local law enforcement in the jurisdiction where the child resides if the child currently resides in Montana or local law enforcement in the jurisdiction where the alleged acts took place if the child does not reside in Montana; and

(b) law enforcement shall notify the centralized intake bureau of the department if the report is made to law enforcement.

(2) When the report required under subsection (1) involves the death of a child, the appropriate entity shall notify the centralized intake bureau of the department or local law enforcement, as appropriate.

(3) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of the department's response required and the timeframe within which action must be initiated. If the department determines that an investigation is required, the department, a social worker, the county attorney, or a peace officer shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child. If a report contains allegations of abuse or serious neglect, the department and local law enforcement shall cooperate as part of an interdisciplinary child protective team when investigating the allegations and conducting interviews of the child pursuant to 41-3-107, 41-3-108, 41-3-205(3), and 52-2-211. The investigation may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that 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, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

~~(2)~~(4) An initial investigation of alleged abuse or neglect by the department may be conducted when an anonymous report is received. However, the The investigation must within 48 hours result in the development

of independent, corroborative, and attributable information in order for the department's investigation to continue. Without the development of independent, corroborative, and attributable information, a child may not be removed from the home.

~~(3)~~(5) 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, or member of the county interdisciplinary child protection team, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, ~~the social worker, county attorney, or peace officer may conduct an interview of the child.~~ a member of the interdisciplinary child protective team shall conduct the interview without unnecessary delay and when consistent with the health and welfare of the child to avoid multiple interviews of the child. When possible, the interview should be conducted by a team member who is trained in a recognized forensic child interviewing training program developed according to the national children's alliance model or another nationally recognized model. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

~~(4)~~(6) Subject to 41-3-205(3) and this section, if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family unless releasing the videotape or audiotape threatens the health and safety of the child or the tape is confidential criminal justice information pursuant to 44-5-303.

~~(5)~~(7) (a) If from the investigation the department has reasonable cause to suspect that the child suffered abuse or neglect, the department may provide emergency protective services to the child; pursuant to 41-3-301; or voluntary protective services pursuant to 41-3-302; and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document its determination regarding abuse or neglect of a child; and

(ii) notify the child's family of its investigation and determination, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) If from the investigation it is determined that the child has not suffered abuse or neglect and the initial report is determined to be unfounded, the department and the social worker, county attorney, or peace officer who conducted the investigation into the circumstances surrounding the allegations of abuse or neglect shall destroy all of their records concerning the report and the investigation. The destruction must be completed within

30 days of the determination that the child has not suffered abuse or neglect.

(c) (i) If the report is unsubstantiated, the department and the social worker who conducted the investigation into the circumstances surrounding the initial allegations of abuse or neglect shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting from the date the report was determined to be unsubstantiated, unless:

(A) there had been a previous or there is a subsequent substantiated report concerning the same person; or

(B) an order has been issued under this chapter based on the circumstances surrounding the initial allegations.

(ii) A person who is the subject of an unsubstantiated report that was made prior to October 1, 2003, and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or an order issued under this chapter based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report as provided in subsection (5)(c)(i).

~~(6)(8)~~ The investigating social worker, within 60 days of commencing an investigation, shall also furnish a written report to the department and, upon request, to the family. Subject to subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and determinations of child abuse and neglect cases.

~~(7)(9)~~ Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(10) Upon request of the department, the county sheriff's office shall run local and national criminal background checks for parents, foster parents, potential foster parents, potential adoptive parents, or anyone providing care for a child or who may provide care for a child."

Section 3. Section 52-2-211, MCA, is amended to read:

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

- (a) the youth court;
- (b) the county attorney;
- (c) the department of public health and human services;

- (d) the county superintendent of schools;
- (e) the sheriff;
- (f) the chief of any police force;
- (g) the superintendents of public school districts; and
- (h) the department of corrections.

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

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

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

(b) A member of an auxiliary team must be a person who has personal knowledge of or experience with the child or children in the member's respective field.

(4) The purpose of the team and written agreement is to facilitate the exchange and sharing of information that one or more team members may be able to use in serving a child in the course of their professions and occupations, including but not limited to abused or neglected children, delinquent youth, and youth in need of intervention. Information regarding a child that a team member supplies to other team members or that is disseminated to a team member under 41-3-205 or 41-5-215(2) and (3) is considered confidential and may not be disseminated beyond the team.

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

(6) The terms of the written agreement must state how the team will coordinate its efforts with interdisciplinary child protective teams as provided in 41-3-108 and youth placement committees as provided for in 41-5-121.

(7) To the extent that the county interdisciplinary child information team is involved in a proceeding that

is held prior to adjudication of a youth in youth court, the team satisfies the requirements of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974. Montana school districts may release education records to the team. The terms of the written agreement described in subsection (5) must include a requirement that the officials and authorities to whom the information is disclosed certify in writing to the school district that is releasing the education records that the education records or information from the education records will not be disclosed to any other party without the prior written consent of the parent or guardian of the student."

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