

SENATE BILL NO. 64

INTRODUCED BY T. FACEY

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING COMPLAINTS TO BE REFUSED UNDER CERTAIN CONDITIONS; GRANTING IMMUNITY FROM THE DISCIPLINARY AUTHORITY OF A LICENSING BOARD FROM CHARGES OF MISCONDUCT REGARDING TESTIMONY BY LICENSED SOCIAL WORKERS, PROFESSIONAL COUNSELORS, AND MARRIAGE AND FAMILY THERAPISTS; AMENDING SECTIONS 37-1-308 AND 37-1-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 37-1-308, MCA, is amended to read:

"37-1-308. Unprofessional conduct -- complaint -- investigation -- immunity -- exceptions. (1)

Except as provided in subsections (4) and (5), a person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. The department may refuse to process a complaint if the factual allegations of the complaint, even if true, do not constitute a violation of any applicable statute, rule, or standard.

(3) A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

(4) A person under legal custody of a county detention center or incarcerated under legal custody of the department of corrections may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while detained or confined in a county detention center or incarcerated under legal custody of the department of corrections unless the

1 complaint is first reviewed by a correctional health care review team provided for in 37-1-331.

2 (5) A board member may file a complaint with the board on which the member serves or otherwise act
3 in concert with a complainant in developing, authoring, or initiating a complaint to be filed with the board if the
4 board member determines that there are reasonable grounds to believe that a particular statute, rule, or standard
5 has been violated."

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7 **Section 2.** Section 37-1-402, MCA, is amended to read:

8 **"37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity.** (1) A person,
9 government, or private entity may submit a written complaint to the department charging a licensee or license
10 applicant with a violation of this part and specifying the grounds for the complaint.

11 (2) If the department receives a written complaint or otherwise obtains information that a licensee or
12 license applicant may have violated a requirement of this part, the department may investigate to determine
13 whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.
14 The department may refuse to process a complaint if the factual allegations of the complaint, even if true, do not
15 constitute a violation of any applicable statute, rule, or standard.

16 (3) A person or private entity, but not a government entity, filing a complaint under this section in good
17 faith is immune from suit in a civil action related to the filing or contents of the complaint."

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19 NEW SECTION. **Section 3. Immunity from misconduct allegations.** Immunity from the disciplinary
20 authority of the board for violations of 37-1-316 is granted to a person licensed by the board whenever the
21 allegation of misconduct is based on testimony or opinions offered by the licensee with respect to judicial
22 proceedings governed by Titles 40, 41, or 42.

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24 NEW SECTION. **Section 4. Codification instruction.** (1) [Section 3] is intended to be codified as an
25 integral part of Title 37, chapter 22, part 4, and the provisions of Title 37, chapter 22, part 4, apply to [section 3].

26 (2) [Section 3] is intended to be codified as an integral part of Title 37, chapter 23, part 3, and the
27 provisions of Title 37, chapter 23, part 3, apply to [section 3].

28 (3) [Section 3] is intended to be codified as an integral part of Title 37, chapter 37, part 3, and the
29 provisions of Title 37, chapter 37, part 3, apply to [section 3].

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