

SENATE BILL NO. 289

INTRODUCED BY D. SANDS

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~~A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TEMPORARY GRANT PROGRAM TO PROVIDE PROVIDING PREGNANT WOMEN SEEKING ASSISTANCE WITH A SUBSTANCE USE DISORDER WITH THE OPPORTUNITY TO ENTER INTO CHEMICAL DEPENDENCY AND PRENATAL SUPPORT PLANS TO OBTAIN TREATMENT AND AVOID SAFE HARBOR FROM PROSECUTION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 50-32-609, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."~~

~~WHEREAS, the number of Montana children in foster care is increasing sharply; and
WHEREAS, over half of Montana children in foster care are removed from the home for reasons related to parental substance abuse; and
WHEREAS, the percentage of infants having experienced prenatal drug exposure is increasing; and
WHEREAS, pregnancy provides a unique intervention opportunity for treatment of substance use disorders and prevention of family separation.~~

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

~~NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 5] is to promote the development of chemical dependency and prenatal support plans to provide a pregnant woman who is dealing with a substance use disorder with evaluation, treatment, and support services without fear of being criminalized or separated from her child or children.~~

~~NEW SECTION. Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:~~

- ~~(1) "Department" means the department of public health and human services provided for in 2-15-2201.~~
- ~~(2) "Local public health unit" means a county health department, tribal health department, or prenatal health care provider.~~



1 ~~NEW SECTION. Section 3. Rulemaking authority.~~ The department shall adopt rules necessary to
 2 administer [sections 1 through 5]. The rules may include but are not limited to:

3 ~~(1) eligibility requirements for local public health units applying for grants;~~

4 ~~(2) criteria for determining the amount of funding granted; and~~

5 ~~(3) reporting procedures for local public health units receiving grants, including how funding was spent
 6 and the outcomes generated by the program.~~

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 8 ~~NEW SECTION. Section 4. Grant program -- reporting requirements.~~ (1) Subject to appropriation
 9 by the legislature or through grant or other funding obtained by the department, the department shall allocate the
 10 money received to a division of the department responsible for prevention and treatment of addictive and mental
 11 disorders. The money must be used to provide grants to local public health units that submit a proposal in
 12 accordance with [section 5].

13 ~~(2) The department shall issue a report to the 2021 joint appropriations subcommittee on health and
 14 human services by the end of the biennium beginning July 1, 2019, regarding the outcomes of the grants and
 15 opportunities for federal and private funding partnerships in the area of prevention and treatment of substance
 16 use disorders during pregnancy.~~

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 18 ~~NEW SECTION. Section 5. Grant application process -- chemical dependency and prenatal
 19 support plans.~~ (1) In order to receive a grant under [section 4], a local public health unit shall submit to the
 20 department a proposal for a voluntary program to enter into chemical dependency and prenatal support plans
 21 with pregnant women experiencing a substance use disorder.

22 ~~(2) A woman participating in a chemical dependency and prenatal support plan is entitled to:~~

23 ~~(a) evaluation of the pregnant woman by a licensed addiction counselor, an advanced practice registered
 24 nurse with training in chemical dependency, or another appropriate professional;~~

25 ~~(b) development of an individualized treatment plan, including referrals to other service providers; and~~

26 ~~(c) in-home services aimed at supporting the woman throughout her pregnancy and treatment for her
 27 substance use disorder.~~

28 ~~(3) Local public health units may elect whether to provide the services listed in subsection (2) in-house,
 29 to contract with outside entities, or to provide a combination of in-house and contract services.~~

30 ~~(4) Unsuccessful completion of a chemical dependency and prenatal support plan does not result in a~~

1 mandatory reporting obligation not otherwise existing under the laws of this state:

2 ~~—— (5) A pregnant woman participating in a chemical dependency and prenatal support plan retains all~~
 3 ~~privacy rights afforded under state law or the federal Health Insurance Portability and Accountability Act of 1996,~~
 4 ~~45 CFR, parts 160 and 164.~~

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6 **Section 1.** Section 50-32-609, MCA, is amended to read:

7 **"50-32-609. Good Samaritan protections.** (1) The provisions of 45-5-626, 45-9-102, 45-9-107, and
 8 45-10-103 do not apply to:

9 (a) a person who, acting in good faith, seeks medical assistance for another person who is experiencing
 10 an actual or reasonably perceived drug-related overdose if the evidence supporting an arrest, charge, or
 11 prosecution was obtained as a result of the person's seeking medical assistance for another person; ~~and~~

12 (b) a person who experiences a drug-related overdose and is in need of medical assistance if the
 13 evidence supporting an arrest, charge, or prosecution was obtained as a result of the drug-related overdose and
 14 the need for medical assistance; and

15 ~~(c) a pregnant woman participating or considering participating in a chemical dependency and prenatal~~
 16 ~~support plan pursuant to [sections 1 through 5] SEEKING OR RECEIVING EVALUATION, TREATMENT, OR SUPPORT~~
 17 ~~SERVICES FOR A SUBSTANCE USE DISORDER.~~

18 (2) A person's pretrial release, probation, furlough, supervised release, or parole may not be revoked
 19 based on an incident for which the person would be immune from arrest, charge, or prosecution under this
 20 section.

21 (3) A person's act of providing first aid or other medical assistance to a person who is experiencing an
 22 actual or reasonably perceived drug-related overdose may be used as a mitigating factor in a criminal prosecution
 23 for which immunity is not provided under this section.

24 (4) This section may not be construed to:

25 (a) bar the admissibility of evidence obtained in connection with the investigation and prosecution of
 26 other crimes or violations committed by a person who otherwise qualified for limited immunity under this section;
 27 ~~or~~

28 (b) limit, modify, or remove immunity from liability currently available to public entities, public employees,
 29 or prosecutors or by law; or

30 (c) create a new cause of action or other source of criminal liability for a pregnant woman with a

1 ~~substance use disorder who does not participate in or does not successfully complete a chemical dependency~~
2 ~~and prenatal support plan~~ SEEK OR RECEIVE EVALUATION, TREATMENT, OR SUPPORT SERVICES FOR A SUBSTANCE USE
3 DISORDER."

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5 NEW SECTION. Section 2. Notification to tribal governments. The secretary of state shall send a
6 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
7 Chippewa tribe.

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9 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2019.

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11 ~~NEW SECTION. Section 9. Termination.~~ [This act] terminates June 30, 2021.

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