

1 HOUSE BILL NO. 461

2 INTRODUCED BY L. SHELDON-GALLOWAY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO REPORTING OF CHILD ABUSE
5 AND NEGLECT; REQUIRING AUDIO RECORDING OF REPORTS; REQUIRING CERTAIN INFORMATION
6 TO BE REQUESTED; ~~REQUIRING NOTIFICATION TO REPORTERS; PROVIDING A PENALTY FOR~~
7 ~~MAKING A FALSE REPORT; REQUIRING SUSPECTED FALSE REPORTS BE REFERRED TO A COUNTY~~
8 ~~ATTORNEY;~~ AND AMENDING SECTIONS 41-3-201 ~~AND 45-7-203 AND 41-3-207~~, MCA."

9

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

11

12 NEW SECTION. Section 1. Department procedures for reports -- recording -- notifications. (1) A

13 department employee receiving a report of abuse or neglect pursuant to this part shall:

14 (a) obtain the information and provide the notifications specified in this section; and

15 (b) make an audio recording when a report is made by phone. The department shall retain the
16 recording in the same manner as provided for safety and risk assessments in 41-3-202.

17 (2) A department employee receiving a report of abuse or neglect shall request the following
18 information:

19 (a) the specific facts giving rise to the reasonable suspicion of child abuse or neglect and the
20 source or sources of the information; and

21 (b) (i) if the person making the report is required under 41-3-201 to report suspected abuse or
22 neglect, the person's name, telephone number, and business address and the capacity that makes the person
23 a mandatory reporter under 41-3-201; or

24 (ii) if the person making the report is not a mandatory reporter under 41-3-201, the person's name,
25 telephone number, and home address. If the person is unwilling to provide the information, the person receiving
26 the report shall notify the caller that if the caller suspects the child is at serious risk of imminent harm, the call
27 will be transferred to 9-1-1 so it will be prioritized as an emergency.

28 (3) Reports made under this part are confidential as provided in 43-1-205. The privacy of the

1 person making the report must be protected as provided in 41-3-205(3)(d) and (3)(h).

2 (4) A department employee receiving a report pursuant to 41-3-201 shall:

3 (a) to the greatest extent possible, attempt to obtain the name, phone number, and address of the
4 person making the report and document any other identifying information available, including but not limited to
5 the caller's phone number when identified by the phone system; and

6 (b) if the report is being made by phone, notify the caller that the report is being recorded and the
7 person's identity will be kept confidential.

8 ~~(5) — A person making a report must be informed of the penalty for making a false report under this~~
9 ~~chapter.~~

11 NEW SECTION. Section 2. Right of aggrieved party. (1) A person who is alleged to be a
12 perpetrator of abuse or neglect in a report made under this part may file a complaint with the office of the child
13 and family ombudsman if the person believes the report was false or made with malicious intent. The office
14 shall investigate the complaint, including obtaining any recordings made of the reports.

15 (2) If the ~~investigation finds~~ ombudsman suspects that a report was made with false or malicious
16 intent and may be considered an offense under 45-7-203, the ombudsman shall report the finding matter to the
17 county attorney having jurisdiction of the matter.

19 **Section 3.** Section 41-3-201, MCA, is amended to read:

20 **"41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have
21 reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that
22 a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or
23 neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to
24 the department of ~~public health and human services~~. The department shall follow the provisions of [section 1] in
25 taking the report.

26 (2) Professionals and officials required to report are:

27 (a) a physician, resident, intern, or member of a hospital's staff engaged in the admission,
28 examination, care, or treatment of persons;

1 (d) the facts that led the person reporting to believe that the child has suffered injury or injuries or
2 willful neglect, within the meaning of this chapter."

3

4 **Section 4.** Section 41-3-207, MCA, is amended to read:

5 ~~"41-3-207. **Penalty for Penalties -- failure to report -- false report.** (1) Any person, official, or~~
6 ~~institution required by 41-3-201 to report known or suspected child abuse or neglect who fails to do so or who~~
7 ~~prevents another person from reasonably doing so is civilly liable for the damages proximately caused by the~~
8 ~~act or omission.~~

9 ~~(2) Except as provided in subsection (3), any person or official required by 41-3-201 to report~~
10 ~~known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or~~
11 ~~neglect or purposely or knowingly prevents another person from making a report is guilty of a misdemeanor.~~

12 ~~(3) Any person or official required by 41-3-201 to report known or suspected sexual abuse or~~
13 ~~sexual exploitation who purposely or knowingly fails to report known sexual abuse or sexual exploitation of a~~
14 ~~child or purposely or knowingly prevents another person from making a report is guilty of a felony and shall be~~
15 ~~imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or~~
16 ~~both.~~

17 ~~(4) A person who purposely or knowingly makes a false report of suspected child abuse under 41-~~
18 ~~3-201 in bad faith or with malicious purpose is guilty of a misdemeanor and is subject to imprisonment of at~~
19 ~~least 1 month and no more than 1 year in jail and a fine of at least \$500 and no more than \$2,500, or both."~~

20

21 **Section 4.** Section 45-7-203, MCA, is amended to read:

22 **"45-7-203. Unsworn falsification to authorities.** (1) A person commits an offense under this section
23 if, with the purpose to mislead a public servant in performing an official function, the person:

24 (a) makes any written or verbal false statement that the person does not believe to be true;

25 (b) purposely creates a false impression in a written application for any pecuniary or other benefit
26 by omitting information necessary to prevent statements from being misleading;

27 (c) submits or invites reliance on any writing that the person knows to be forged, altered, or
28 otherwise lacking in authenticity; or

1 (d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object that
2 the person knows to be false.

3 (2) A person convicted of an offense under this section shall be fined not to exceed \$500 or be
4 imprisoned in the county jail for any term not to exceed 6 months, or both."

5
6 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified
7 as an integral part of Title 41, chapter 3, part 2, and the provisions of Title 41, chapter 3, part 2, apply to
8 [sections 1 and 2].

9 - END -

AMENDED