HB0800.001.001

1	HOUSE BILL NO. 800
2	INTRODUCED BY M. YAKAWICH
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LIMITED DISSEMINATION OF CRIMINAL
5	HISTORY RECORD INFORMATION THAT IS NOT PUBLIC CRIMINAL JUSTICE INFORMATION RELATED
6	TO CRIMINALLY CHARGED INDIVIDUALS COMMITTED FOR MENTAL HEALTH SERVICES;
7	ESTABLISHING ALLOWABLE USES; PROVIDING FOR REQUIREMENTS FOR REQUESTING CRIMINAL
8	HISTORY RECORD INFORMATION THAT IS NOT PUBLIC CRIMINAL JUSTICE INFORMATION;
9	PROVIDING FOR CONFIDENTIALITY OF INFORMATION; PROVIDING FOR A PENALTY FOR
10	UNAUTHORIZED DISCLOSURE; AND AMENDING SECTION 44-5-302, MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	
14	Section 1. Section 44-5-302, MCA, is amended to read:
15	"44-5-302. Dissemination of criminal history record information that is not public criminal
16	justice information. (1) Criminal history record information may not be disseminated to agencies or entities
17	other than criminal justice agencies unless:
18	(a) the information is disseminated with the consent or at the request of the individual about whom
19	it relates according to procedures specified in 44-5-214 and 44-5-215;
20	(b) a district court considers dissemination necessary;
21	(c) the information is disseminated in compliance with 44-5-304; or
22	(d) the information is disseminated on the written request of an entity providing residential
22 23	(d) the information is disseminated on the written request of an entity providing residential treatment or care for an individual that is:
23	treatment or care for an individual that is:
23 24	treatment or care for an individual that is: (i) licensed as a long-term care facility as defined in 50-5-101;
23 24 25	treatment or care for an individual that is: (i) licensed as a long-term care facility as defined in 50-5-101; (ii) licensed as a community residential facility as defined in 76-2-411(1) or (3); or
23 24 25 26	treatment or care for an individual that is: (i) licensed as a long-term care facility as defined in 50-5-101; (ii) licensed as a community residential facility as defined in 76-2-411(1) or (3); or (iii) providing a home-like setting for individuals working on maintaining their sobriety; or



Amendment - 1st Reading-white - Requested by: Laura Smith - (H) Judiciary

- 2023 68th Legislature 2023

Drafter: Rachel Weiss, 406-444-5367

HB0800.001.001

1	applicants for admission to the state bar of Montana and shall, with respect to a bar admission applicant whose
2	fingerprints are given to the department or agency by the state bar, exchange available state, multistate, local,
3	federal (to the extent allowed by federal law), and other criminal history record information with the Montana
4	supreme court and its commission on character and fitness for licensing purposes.
5	(3) An entity meeting the requirements of subsection (1)(d) may receive the information on an
6	individual who:
7	(a) is receiving or has requested services from an entity meeting the requirements of subsection
8	<u>(1)(d);</u>
9	(b) is under a current order of commitment to the Montana state hospital or another mental health
10	facility pursuant to 46-14-202 or 46-14-221 in connection with a prosecution in which the individual has been
11	charged with a sexual offense or a violent offense, as defined in 46-23-502; or
12	(c) has been committed to the custody of the director of the department of public health and
13	human services pursuant to 46-14-301 after being found not guilty of a sexual offense or a violent offense, as
14	defined in 46-23-502, for the reason that due to a mental disease or disorder the defendant could not have a
15	particular state of mind that is an essential element of the offense charged.
15 16	particular state of mind that is an essential element of the offense charged. (4) In making a request for criminal history record information, the entity requesting the information
16	(4) In making a request for criminal history record information, the entity requesting the information
16 17	(4) In making a request for criminal history record information, the entity requesting the information shall:
16 17 18	(4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is
16 17 18 19	(4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and
16 17 18 19 20	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from
16 17 18 19 20 21	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the
16 17 18 19 20 21 22	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c).
16 17 18 19 20 21 22 23	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c). (5) The prosecutor shall disseminate the requested criminal history record information to an entity
16 17 18 19 20 21 22 23 24	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c). (5) The prosecutor shall disseminate the requested criminal history record information to an entity meeting the requirements of subsection (1)(d) when the individual about whom the information relates has
16 17 18 19 20 21 22 23 24 25	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c). (5) The prosecutor shall disseminate the requested criminal history record information to an entity meeting the requirements of subsection (1)(d) when the individual about whom the information relates has provided written consent to the dissemination.
 16 17 18 19 20 21 22 23 24 25 26 	 (4) In making a request for criminal history record information, the entity requesting the information shall: (a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and (b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c). (5) The prosecutor shall disseminate the requested criminal history record information to an entity meeting the requirements of subsection (1)(d) when the individual about whom the information relates has provided written consent to the dissemination. (6) If an individual about whom the information relates and who meets the criteria described in



Amendment - 1st Reading-white - Requested by: Laura Smith - (H) Judiciary

- 2023 68th Legislature 2023

Drafter: Rachel Weiss, 406-444-5367

HB0800.001.001

1	(7) (a) Confidential criminal justice information received pursuant to subsections (1)(d) and (3) may
2	be shared only with employees of the entity requesting the information to make treatment-related decisions,
3	including decisions related to the safety of the individual for whom criminal history record information was
4	obtained and for other persons in the treatment setting. Any person receiving criminal history record information
5	shall maintain the confidentiality of the information.
6	(b) A person who obtains confidential criminal justice information pursuant to subsections (1)(d)
7	and (3) by misrepresenting the purpose of the request or who shares criminal history record information or any
8	other confidential criminal justice information received pursuant to subsections (1)(d) and (3) with persons not
9	authorized to receive the information is guilty of a misdemeanor and, on conviction, is punishable by a fine of

10 not more than \$1,000 or imprisonment in a county jail for a term not to exceed 1 year, or both."

11

- END -

