

HOUSE BILL NO. 886

INTRODUCED BY R. FITZGERALD

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE YOUTH COURT ACT TO ALLOW ADDITIONAL ACCESS TO SEALED RECORDS; REQUIRING VICTIM CONSENT TO DESTROY CERTAIN RECORDS; ALLOWING THE VICTIM OF CERTAIN CRIMES TO ACCESS SEALED RECORDS ON ORDERS OF THE COURT FOR GOOD CAUSE SHOWN; AND AMENDING SECTION 41-5-216, MCA."

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

Section 1. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal and informal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing. However, records relating to the adjudication of a youth for a sexual offense as defined in ~~46-23-503~~ 46-23-502 may not be destroyed without the consent of the victim. Consent may not be obtained from the victim until after the victim has attained 18 years of age.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not

1 fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, or the information
2 referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender
3 pursuant to Title 46, chapter 23, part 5.

4 (5) After formal and informal youth court records, law enforcement records, and department
5 records are sealed, they are not open to inspection except, ~~upon~~ on order of the youth court, for good cause to:

6 (a) those persons and agencies listed in 41-5-215(2); ~~and~~

7 (b) adult probation and parole staff preparing a presentence report on an adult with an existing
8 sealed youth court record; and

9 (c) for records relating to the adjudication of a youth for a sexual offense as defined in ~~46-23-503~~
10 46-23-502, the victim of the offense.

11 (6) (a) When formal youth court records, law enforcement records, and department records are
12 sealed under subsection (1), the electronic records of the management information system maintained by the
13 office of court administrator and by the department relating to the youth whose records are being sealed must
14 be preserved for the express purpose of research and program evaluation.

15 (b) The department of public health and human services, the office of court administrator, and the
16 department shall disassociate the offense and disposition information from the name of the youth in the
17 respective management information system. The offense and disposition information must be maintained
18 separately and may be used only:

19 (i) for research and program evaluation authorized by the office of court administrator or by the
20 department and subject to any applicable laws; and

21 (ii) as provided in Title 5, chapter 13.

22 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must
23 be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any
24 agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be
25 inspected only pursuant to subsection (5).

26 (b) The informal youth court records are confidential and may be shared only with those persons
27 and agencies listed in 41-5-215(2).

28 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when

1 extended supervision ends and the youth was involved only in informal proceedings, informal youth court
2 records that are in hard-copy form must be destroyed and any electronic records in the youth court
3 management information system must disassociate the offense and disposition information from the name of
4 the youth and may be used only for the following purposes:

5 (i) for research and program evaluation authorized by the office of the court administrator and
6 subject to any applicable laws; and

7 (ii) as provided in Title 5, chapter 13.

8 (8) Nothing in this section prohibits the sharing of formal or informal youth court records within the
9 juvenile probation management information system to a person or agency listed in 41-5-215(2).

10 (9) This section does not prohibit the sharing of formal or informal youth court records within the
11 department's youth management information system. Electronic records of the department's youth
12 management information system may not be shared except as provided in subsection (5). A person or agency
13 receiving the youth court record shall destroy the record after it has fulfilled its purpose.

14 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-
15 term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon
16 placement of a youth within the facility.

17 (11) This section does not prohibit access to formal or informal youth court records, including
18 electronic records, for purposes of conducting evaluations as required by 41-5-2003 and studies conducted
19 between individuals and agencies listed in 41-5-215(2).

20 (12) This section does not prohibit the office of court administrator, upon written request from the
21 department of revenue, from confirming whether a person applying for a registry identification card pursuant to
22 16-12-503 or a license pursuant to 16-12-203 is currently under youth court supervision.

23 (13) The fee for a person to inspect youth court records under subsection (5)(c) is \$5."

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