

1 SENATE BILL NO. 149

2 INTRODUCED BY D. LENZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PENALTIES FOR FALSELY REPORTING CHILD
5 ABUSE OR NEGLECT; ~~AND AMENDING SECTION~~ SECTIONS 41-3-203, 41-3-207, AND 45-7-203, MCA;
6 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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10 **Section 1.** Section 41-3-203, MCA, is amended to read:

11 **"41-3-203. ~~Immunity~~ LIABILITY -- IMMUNITY from liability -- penalty for false reporting DAMAGES.** (1)
12 ~~Anyone~~ EXCEPT AS PROVIDED IN SUBSECTION (2), ANYONE investigating or reporting any incident of child abuse or
13 neglect under 41-3-201 or 41-3-202, participating in resulting judicial proceedings, or furnishing hospital or
14 medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be
15 incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or
16 provided information knowing the information to be false.

17 (2) Any person who knowingly makes a false report or allegation of child abuse, abandonment, or
18 neglect or makes a report in bad faith is liable to the party or parties against whom the report was made for the
19 amount of actual damages sustained or for statutory damages of \$2,500, whichever is greater, plus attorney
20 fees and costs. If the person acted with malicious purpose, the court may award treble actual damages or treble
21 statutory damages, whichever is greater.

22 ~~(3) A person who purposely or knowingly makes a false report of suspected child abuse under 41-~~
23 ~~3-201 in bad faith or with malicious purpose is guilty of a misdemeanor.~~

24 ~~(2)(4)(3)~~ A person who provides information pursuant to 41-3-201 or a person who uses
25 information received pursuant to 41-3-205 to refuse to hire or to discharge a prospective or current employee,
26 volunteer, or other person who through employment or volunteer activities may have unsupervised contact with
27 children and who may pose a risk to children is immune from civil liability unless the person acted in bad faith or
28 with malicious purpose."

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SECTION 2. SECTION 41-3-207, MCA, IS AMENDED TO READ:

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

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

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

(4) Any person who purposely or knowingly makes a WRITTEN OR VERBAL false report of suspected child abuse or neglect under 41-3-201 in bad faith or with malicious purpose is guilty of unsworn falsification to authorities as provided in 45-7-203."

SECTION 3. SECTION 45-7-203, MCA, IS AMENDED TO READ:

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

- (a) makes any written or verbal false statement that the person does not believe to be true;
- (b) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements from being misleading;
- (c) submits or invites reliance on any writing that the person knows to be forged, altered, or otherwise lacking in authenticity; or
- (d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object that the person knows to be false.

