



AN ACT REVISING DISCOVERY PROCEDURES IN CHILD ABUSE AND NEGLECT PROCEEDINGS;
REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DISCLOSE
INFORMATION ON REQUEST TO PARENTS WHO ARE PARTIES TO THE PROCEEDING; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Discovery procedure. (1) On request of a parent who is a party to the proceeding, the department shall make available for examination and reproduction the following material and information within the department's possession or control:

- (a) the names, addresses, and statements of all persons who the department may call to provide testimony;
- (b) all written or oral statements, reports, case notes, correspondence, evaluations, interviews, and documentation produced by the department or in the department's possession that addresses the parent or child;
- (c) all written reports or statements of experts who have personally examined the child or any evidence, together with the results of any physical or psychological examinations;
- (d) all papers, documents, photographs, videotapes, or tangible objects that the department may use at trial or that were obtained from or purportedly belong to the parent; and
- (e) all material or information that tends to support, mitigate, or negate the department's case concerning the custody of and parental rights to the child.

(2) The department may impose reasonable conditions, including an appropriate stipulation concerning the chain of custody, to protect physical evidence produced under subsection (1)(d).

(3) The department's obligation of disclosure extends to material and information in the possession

or control of members of the department's staff and of any other persons who have participated in the investigation or evaluation of the case.

(4) On motion showing that the parent has requested discovery relevant to the preparation of the case for additional material or information not otherwise provided for and that the parent is unable to obtain the substantial equivalent by other means, the court shall order the department or any person to make it available to the parent. The court may, on the request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive.

(5) If at any time during the course of the proceeding it is brought to the attention of the court that a party has failed to comply with any of the provisions of this section or any order issued pursuant to this section, the court may order any remedy that it finds just under the circumstances, including but not limited to:

- (a) ordering disclosure of the information not previously disclosed;
 - (b) granting a continuance;
 - (c) holding a witness, party, or counsel in contempt for an intentional violation; or
 - (d) precluding a party from calling a witness, offering evidence, or raising a defense not disclosed.
- (6) The identity of any person who reported or provided information on an alleged child abuse or neglect incident is protected from disclosure as provided under 41-3-205.

(7) Any materials furnished to an attorney under this section may not be disclosed to the public but may be disclosed to others only to the extent necessary for the proper conduct of the case.

(8) If at any time after a disclosure has been made the department discovers additional material or information that would be subject to disclosure had it been known at the time of disclosure, the department shall promptly notify the parent of the existence of the additional material or information and make an appropriate disclosure.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 41, chapter 3, part 4, and the provisions of Title 41, chapter 3, part 4, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to proceedings pending on [the effective date of this act] and proceedings filed on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
HB 385, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 385

INTRODUCED BY J. CARLSON, J. WINDY BOY, L. SHELDON-GALLOWAY, B. LER, A. REGIER, J. READ,
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