

RELEASE OF CHILD ABUSE & NEGLECT CASE RECORDS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex, and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: [Section 41-3-205, MCA](#), governs the release of child abuse and neglect case records of the Department of Public Health and Human Services (DPHHS) and its local affiliate, the local office of public assistance, the county attorney, and the court. Under this statute, case records (including case notes, correspondence, videotapes, evaluations, and interviews) are confidential; however, the statute provides for both the permissive and mandatory release of case records if certain circumstances are met. The statute contains a lengthy list of persons to whom case records *may be* released if the “disclosure of the records is not detrimental to the child or harmful to another person who is a subject of information contained in the records” The statute requires DPHHS to release case records to certain entities if the entities submit a written request for the information and requires DPHHS to disclose the records to various entities upon the occurrence of specific events. With limited exceptions, persons to whom case records are released are required to maintain the confidentiality of the records. The unauthorized dissemination of case records is a misdemeanor offense.

Legislative Services Division Materials:

[*Confidentiality and Its Exceptions: A Review of 41-3-205, MCA*](#), June 2012.

Other Materials:

[Title 37, chapter 47, subchapter 6, ARM Confidentiality of case records.](#)

[DPHHS Child and Family Services Policy Manual: Confidentiality, HIPAA & Case Records](#)

[Protect Montana Kids Commission Report](#), May 31, 2016.

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2019

[SB 216](#) Vetoed by Governor. AN ACT REVISING PROCEDURES RELATED TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; REQUIRING NOTIFICATION TO A COURT OF A CASE UNDER OMBUDSMAN REVIEW; ESTABLISHING TIMELINES FOR DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES RESPONSES TO OMBUDSMAN REPORTS; REQUIRING THE ATTORNEY GENERAL TO NOTIFY COUNTY ATTORNEYS OF REPEATED VIOLATIONS OF POLICIES OR PRACTICES; AND AMENDING SECTIONS 41-3-205, 41-3-1211, AND 41-3-1212, MCA.

[HB 502](#) Chapter Number Assigned. AN ACT GENERALLY REVISING INVESTIGATIONS BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INTO CHILD ABUSE AND NEGLECT REPORTS; REVISING WHERE A LEGISLATOR MAY VIEW CERTAIN RECORDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 41-3-102, 41-3-202, 41-3-203, 41-3-204, 41-3-205, 41-3-208, AND 50-16-603, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HB 640](#) Chapter Number Assigned. AN ACT GENERALLY REVISING LAWS RELATED TO CHILDHOOD SEXUAL ABUSE; REVISING THE STATUTE OF LIMITATIONS FOR CIVIL LIABILITY FOR CHILDHOOD SEXUAL ABUSE; REVISING THE TYPES OF CRIMES THAT CAN BE CONSIDERED CHILDHOOD SEXUAL ABUSE FOR THE PURPOSES OF CIVIL LIABILITY; REVISING THE DEFINITIONS OF SEXUAL ABUSE AND SEXUAL EXPLOITATION FOR THE PURPOSES OF CHILD ABUSE AND NEGLECT PROCEEDINGS; REVISING LAWS RELATED TO REPORTING OF SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL EXPLOITATION; INCLUDING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES EMPLOYEES AS MANDATORY REPORTERS OF CHILD ABUSE AND NEGLECT; REQUIRING COUNTY ATTORNEYS AND THE ATTORNEY GENERAL TO PROVIDE CERTAIN REPORTS; REVISING LAWS RELATED TO RETENTION AND DISCLOSURE OF CONFIDENTIAL RECORDS; PROVIDING A FELONY PENALTY FOR FAILURE TO REPORT CHILD SEXUAL ABUSE OR SEXUAL EXPLOITATION; REVISING THE CRIMINAL STATUTE OF LIMITATIONS FOR SEX OFFENSES INVOLVING VICTIMS WHO WERE CHILDREN AT THE TIME OF THE OFFENSE; AMENDING SECTIONS 27-2-204, 27-2-216, 41-3-102, 41-3-201, 41-3-202, 41-3-205, 41-3-207, AND 45-1-205, MCA; REPEALING SECTION 27-2-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

2017

[SB 113](#) Chapter Number Assigned. AN ACT PROVIDING INCREASED TRANSPARENCY IN THE DISCLOSURE OF CHILD AND FAMILY SERVICES RECORDS; PROVIDING FOR THE DISCLOSURE OF RECORDS TO MEMBERS OF THE UNITED STATES CONGRESS AND MONTANA LEGISLATURE UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA.

[SB 229](#) Chapter Number Assigned. AN ACT REQUIRING THE RELEASE OR DISCLOSURE OF CHILD ABUSE OR NEGLECT RECORDS TO CERTAIN LAW ENFORCEMENT, PROSECUTORIAL, AND CHILD WELFARE ENTITIES AND INDIVIDUALS WHEN A CHILD HAS BEEN EXPOSED TO A DANGEROUS DRUG; AMENDING SECTION 41-3-205, MCA; AND PROVIDING AN EFFECTIVE DATE.

[HB 303](#) Chapter Number Assigned. AN ACT CREATING A CHILD ABUSE AND NEGLECT REVIEW COMMISSION FOR CASES INVOLVING CHILD ABUSE AND NEGLECT, INCLUDING FATALITIES AND NEAR FATALITIES; ESTABLISHING MEMBERSHIP REQUIREMENTS; ALLOWING FOR THE SHARING OF MEDICAL AND CRIMINAL JUSTICE INFORMATION RELATED TO CHILD ABUSE AND NEGLECT FATALITIES AND NEAR FATALITIES; PROVIDING CONFIDENTIALITY; REQUIRING A REPORT; AMENDING SECTIONS 41-3-201, 41-3-205, 44-5-303, 50-16-522, 50-16-525, 50-16-804, AND 50-16-805, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

[HB 468](#) Died in Standing Committee. AN ACT GENERALLY REVISING CHILD ABUSE AND NEGLECT LAWS; REQUIRING OPEN COURT PROCEEDINGS; REVISING CONFIDENTIALITY PROVISIONS OF RECORDS; REQUIRING COURT ORDERS FOR CERTAIN ACTIONS; REVISING TIMELINES FOR DESTROYING CERTAIN INFORMATION; AMENDING SECTIONS 41-3-202, 41-3-205, AND 41-3-301, MCA; AND PROVIDING AN APPLICABILITY DATE.

2015

[HB 309](#) Missed Deadline for Revenue Bill Transmittal. AN ACT CREATING A CHILD ABUSE AND NEGLECT REVIEW COMMISSION FOR CASES INVOLVING FATALITIES AND NEAR FATALITIES; ESTABLISHING MEMBERSHIP REQUIREMENTS; ALLOWING FOR THE SHARING OF MEDICAL AND CRIMINAL JUSTICE INFORMATION RELATED TO CHILD ABUSE FATALITIES AND NEAR FATALITIES; PROVIDING CONFIDENTIALITY; REQUIRING A REPORT; AND AMENDING SECTIONS 41-3-201, 41-3-205, 44-5-303, 50-16-522, 50-16-525, 50-16-804, AND 50-16-805, MCA.

[HB 472](#) Chapter Number Assigned. AN ACT REVISING LAWS RELATING TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PERMANENTLY ESTABLISHING THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PROVIDING POWERS, DUTIES, AND INVESTIGATIVE PROCEDURES OF THE OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE THE OMBUDSMAN WITH CERTAIN REPORTS; PROVIDING PRIVILEGE; TRANSFERRING APPROPRIATION AUTHORITY; AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE.

2013

[SB 65](#) Chapter Number Assigned. AN ACT BROADENING THE LIST OF PERSONS TO WHOM THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY RELEASE CHILD ABUSE OR NEGLECT CASE RECORDS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE SPECIFIED INFORMATION UPON REQUEST FROM ANY REPORTER OF ALLEGED CHILD ABUSE OR NEGLECT; AND AMENDING SECTIONS 41-3-202 AND 41-3-205, MCA.

[HB 74](#) Chapter Number Assigned. AN ACT REQUIRING THE RELEASE OR DISCLOSURE OF RECORDS OF CHILD ABUSE OR NEGLECT TO CERTAIN LAW ENFORCEMENT, PROSECUTORIAL, AND CHILD WELFARE ENTITIES AND INDIVIDUALS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT AN IMPLEMENTING RULE; AND AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA.

[HB 76](#) Chapter Number Assigned. AN ACT CREATING AN INDEPENDENT OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; DESCRIBING THE DUTIES AND POWERS OF THE OFFICE; AMENDING SECTION 41-3-205, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

[HB 131](#) Chapter Number Assigned. AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SHARE LIMITED INFORMATION ABOUT AN INVESTIGATION INTO A REPORT OF CHILD ABUSE OR NEGLECT WITH A MANDATORY REPORTER WHO MADE A REQUIRED REPORT OF ALLEGED CHILD ABUSE OR NEGLECT OR INDIVIDUALS DESIGNATED BY THE MANDATORY REPORTER; AND AMENDING SECTIONS 41-3-201 AND 41-3-205, MCA.

[SB 348](#) Chapter Number Assigned. AN ACT RELATING TO MONTANA SCHOOL SAFETY; ADDING PUBLIC SCHOOL BUILDINGS TO THE EXEMPTIONS FROM DISCLOSURE TO PROTECT PUBLIC SAFETY OR SECURITY OF PUBLIC FACILITIES; REQUIRING SCHOOL DISTRICTS TO ADOPT A SCHOOL SAFETY PLAN; REVISING LAWS REGARDING DISASTER DRILLS IN PUBLIC SCHOOLS; REQUIRING SCHOOL DISTRICTS TO ANNUALLY REVIEW SUSPENSION AND EXPULSION POLICIES RELATED TO STUDENTS WITH WEAPONS OR FIREARMS AT SCHOOL; EXPANDING PUBLIC SCHOOL DISTRICT ACCESS TO INFORMATION IN POSSESSION OF LAW ENFORCEMENT REGARDING POTENTIAL CRIMINAL ACTIVITY OF STUDENTS; RENAMING THE COUNTY INTERDISCIPLINARY CHILD INFORMATION AND SCHOOL SAFETY TEAM AND REQUIRING COUNTIES TO FORM A TEAM; REVISING THE REQUIREMENTS FOR A YOUTH COURT TO PROVIDE NOTICE TO A SCHOOL REGARDING YOUTH OFFENDERS; ALLOWING SCHOOL DISTRICTS TEMPORARY AUTHORITY TO TRANSFER FUNDS INTO THE BUILDING RESERVE FUND FOR SCHOOL SAFETY AND SECURITY IMPROVEMENTS; AMENDING SECTIONS 2-6-102, 20-1-401, 20-1-402, 20-5-202, 41-3-205, 41-5-215, 52-2-211, AND 52-2-304, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A TERMINATION DATE.

2011

None.

2009

None.

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