



Montana Legislative Services Division

Legal Services Office

TO: Members of the Law and Justice Interim Committee

FROM: Valencia Lane, Staff Attorney

DATE: June 16, 2010

RE: DEPT. OF JUSTICE RULE SUBMISSIONS -- Rule Review
Juvenile Records
Release of Driving Records
Gambling Licenses--Transfer Among Licensees and Loan Evaluation

The Department of Justice has filed the following rule notices with the Secretary of State's Office for publication in the Montana Administrative Register (MAR):

I.

MAR 2010 Issue No. 8 (April 29, 2010), MAR Notice No. 23-12-215, NOTICE OF PROPOSED AMENDMENT - NO PUBLIC HEARING CONTEMPLATED. The Department of Justice has filed a NOTICE in the matter of the proposed amendment of ARM 23.12.204 concerning juvenile records. The amendment changes the rule to require sealing of juvenile records on the youth's 18th birthday rather than 3 years after supervision for an offense ends. The change is to conform the rule to 2005 legislative changes. The public comment period runs from April 29, 2010 to May 27, 2010.

TECHNICAL NOTE: The proposed rules were reviewed by committee staff and no problems were noted. An electronic version of this notice is available through the Department's website at <http://doj.mt.gov/resources/administrativerules.asp>.

II.

MAR 2010 Issue No. 10 (May 27, 2010), MAR Notice No. 23-3-216, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT. The Department of Justice has filed a NOTICE OF PUBLIC HEARING in the matter of the proposed amendment of ARM 23.3.148 concerning release of driving records. A hearing is scheduled for June 22, 2010, at 2:00 p.m. in the auditorium of the Scott Hart Building in Helena. The public comment period runs from May 27, 2010, to July 1, 2010. The amendment provides that records that are released on payment of a statutorily specified fee may only be used for a single purpose and may only be disclosed to one person or business entity. Additional releases can be made upon additional fee payments. Rationale for the rule is to protect the privacy and accuracy of drivers' information as required by statute. Authority and implementing sections are cited.

TECHNICAL NOTE: The notice was reviewed by committee staff and no problems were noted. An electronic version of this notice is available through the Department's website at <http://doj.mt.gov/resources/administrativerules.asp>.

III.

MAR 2010 Issue No. 11 (June 10, 2010), MAR Notice No. 23-16-217, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT. The Department of Justice has filed a NOTICE OF PUBLIC HEARING in the matter of the proposed amendment of ARM 23.16.116 and 23.16.122 concerning transfer of interest among gambling license licensees and loan evaluation. A hearing is scheduled for July 1, 2010, at 9:00 a.m. in the conference room at the Gambling Control Division in Helena. The public comment period runs from June 10, 2010, to July 8, 2010. The amendment incorporates the Gaming Advisory Council's recommendations to streamline processes for licensees to report ownership changes for the sale of interests among licensees (no new parties added to the license). The amendment also clarifies that gambling activities may continue pending department approval of the ownership changes. The amendments also change standards relating to the department's evaluation of institutional loans for gambling licensees to reflect legislative changes enacted in 2009 relating to liquor licenses (HB 94), which provide that a regulated lender can use standard loan documents to obtain a security interest in a liquor license and that use of those standard loan documents does not constitute unauthorized control over the licenses business. A person must receive both an on-premises alcoholic beverage license from the Department of Revenue and a gambling operator license from the department in order to offer video gambling machines and live poker tables to the public. Rationale for the amendment is to reflect the same legislative intent in the department's evaluation of institutional loans for gambling licensees as for alcohol licensees. The amendments also establish limits on and requirements for third party guarantors, as reflected in current banking practices, to prohibit unauthorized control over gambling licenses or licensees. Authority and implementing sections are cited.

TECHNICAL NOTE: The notice was reviewed by committee staff and no problems were noted. An electronic version of this notice is available through the Department's website at <http://doj.mt.gov/resources/administrativerules.asp>.

IV.

MAR 2010 Issue No. 11 (June 10, 2010), NOTICE OF AMENDMENT. At page 1401 of the 2010 Montana Administrative Register, Issue No. 11 (June 10, 2010), the department has filed a NOTICE OF ADOPTION indicating its final adoption of the amendment of ARM 23.12.204 as published in MAR Notice No. 23-12-215, page 972 of the 2010 MAR, Issue No. 8 (as described in I. above). The rule pertains to sealing of juvenile records.

TECHNICAL NOTE: The notice was reviewed by committee staff and no problems were noted.

c: Sheri Heffelfinger, Staff Researcher
Ali Bovingdon, Assistant Attorney General, Dept. of Justice