

HJ31-3

1 **** BILL NO. ****

2 INTRODUCED BY ****

3 BY REQUEST OF THE ****

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT HJ 31-3: DRAFT LEGISLATION FOR CONSIDERATION AT THE
6 LAW AND JUSTICE INTERIM COMMITTEE'S JUNE 27, 2022, MEETING; AMENDING SECTION 2-6-1003,
7 MCA; PROVIDING THAT CERTAIN RECORDS AND INFORMATION SUBMITTED TO THE CRIMINAL
8 JUSTICE INTEGRATED DATA SYSTEM ARE NOT SUBJECT TO DISCLOSURE; LIMITING
9 GOVERNMENTAL LIABILITY; SIMILAR TO IDAHO LEGISLATION."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. Section 1. Short title. [Sections 1 through 4] may be cited as the "Criminal Justice
14 Integrated Data System Act".

15
16 NEW SECTION. Section 2. Section 4. Legislative intent. The local governments, and state
17 agencies and departments that comprise and interact with the criminal justice system in Montana possess a
18 wealth of data. A centralized data repository to manage and link data across separate entities will aid in
19 evaluating the effectiveness of the criminal justice system and enable data-driven, cost-saving decision-making
20 on issues facing the criminal justice system in Montana. The Criminal Justice Integrated Data System Act
21 establishes the legal framework by which the contributing entities may share, integrate, merge, observe,
22 examine, and research siloed data in a manner that protects sensitive or legally protected personal information.

23
24 NEW SECTION. Section 3. Criminal justice integrated data system. (1) There is created in the
25 [WHAT AGENCY SHOULD BE RESPONSIBLE FOR THE INTEGRATED DATA SYSTEM?] the criminal justice
26 integrated data system to receive, store, secure, and maintain data and information from the local governments,
27 state agencies and departments, or volunteer nongovernmental entities.

28 (2) As the managing agency of the criminal justice integrated data system, the [AGENCY] may:

1 (a) require contributing local governments, state agencies and departments, or volunteer
2 nongovernmental entities to deliver data and information in a certain format and on schedules established for
3 the criminal justice integrated data system; and

4 (b) adopt a memorandum of understanding with each contributing local government, state agency and
5 department, or volunteer nongovernmental entity. The memo of understanding must identify the confidentiality
6 of the information and any conditions or restrictions on the use of the data or information.

7 (3) A memo of understanding with a volunteer nongovernmental entity may not:

8 (a) give the volunteer nongovernmental entity priority in determining the use of the data system or
9 compel the criminal justice integrated data system to produce any product, report, or data analysis for or on
10 behalf of a contributing volunteer nongovernmental entity; or

11 (b) waive or otherwise inhibit a contributing volunteer nongovernmental entity's option to discontinue
12 further contribution of data or information to the criminal justice integrated data system at any time.

13 (4) The records and data collected and stored by the criminal justice integrated data system are exempt
14 from disclosure as provided in 2-6-1003(4).

15
16 **NEW SECTION. Section 4. Data oversight council.** (1) There is a data oversight council in the
17 [AGENCY]. All requests for projects, reports, and data analyses generated from the criminal justice integrated
18 data system must be approved by the data oversight council.

19 (2) The council consists of:

20 (a) the governor or the governor's designee;

21 (b) the chief justice of the Montana supreme court or the chief justice's designee;

22 (c) the attorney general or the attorney general's designee;

23 (d) [the state controller or the state controller's designee [this is a statewide elected position with similar
24 but not identical duties to the Montana department of administration. In Idaho, the state controller is the agency
25 with responsibility for the integrated data system];

26 (e) the director of the department of corrections or the director's designee;

27 (f) the presiding officer of the board of pardons and parole or the presiding officer's designee;

28 (g) [the director of the department of juvenile corrections or the director's designee [there isn't a direct

1 equivalent in Montana to this position];

2 (h) the director of the department of public health and human services or the director's designee;

3 (i) the highway patrol chief or the chief's designee;

4 (j) the chief information officer or the officer's designee; and

5 (k) the superintendent of public instruction or the superintendent's designee [in Idaho: a designee from
6 the state department of education selected by the governor].

7 (3) A designee under subsection (2) must be an employee in the office, agency, or department of the
8 respective designating authority.

9 (4) Members of the data oversight council must serve without additional compensation or honorarium.

10 (5) The data oversight council shall, by majority vote, elect a presiding officer from among the council's
11 members who shall serve a term of two years while serving on the council.

12 (6) Meetings of the data oversight council must be open as provided in Title 2, chapter 3, part 2.

13 (7) The [AGENCY HEAD] shall work in collaboration with the data oversight council to manage the
14 criminal justice integrated data system. In conjunction with the data oversight council, the [AGENCY HEAD] is
15 responsible to assure the confidentiality of all records and data collected by the criminal justice integrated data
16 system and to assure compliance with applicable state and federal laws governing the privacy of records, data,
17 and personally identifiable information.

18 (8) A project, report, or data analysis in final form produced by a person authorized to conduct research
19 and analysis [under this chapter -- no equivalent chapter in Montana] belongs to the requesting local
20 government or state agency or department and not the [AGENCY].

21 (9) The Montana legislature, as well as the contributing local governments and state agencies and
22 departments, have priority in requesting projects, reports, or data analyses to be produced by a person
23 authorized by the data oversight council. The data oversight council may, in its discretion, deny a requested
24 project report, or data analysis when the council determines the request is unduly burdensome, voluminous, or
25 cost-prohibitive.

26 (10) The [AGENCY], members of the data oversight council, and all contributing local governments,
27 state agencies and departments, or volunteer nongovernmental entities are immune from liability to a person or
28 entity for any invasion of the right to privacy or use of records or data generated by the criminal justice

1 integrated data system.

2 (11) In collaboration with contributing local governments, state agencies and departments, or volunteer
3 nongovernmental entities and the data oversight council, the [AGENCY] may establish policies to address the
4 creation of reports generated through the query of records and data possessed by the criminal justice
5 integrated data system. A nongovernmental entity may only collaborate with respect to the data or information
6 contributed by that volunteer nongovernmental entity.

7

8 **Section 5.** Section 2-6-1003, MCA, is amended to read:

9 **"2-6-1003. Access to public information -- safety and security exceptions -- Montana historical**
10 **society exception -- criminal justice integrated data system exception.** (1) Except as provided in
11 subsections (2) and (3), every person has a right to examine and obtain a copy of any public information of this
12 state.

13 (2) A public officer may withhold from public scrutiny information relating to individual or public safety
14 or the security of public facilities, including public schools, jails, correctional facilities, private correctional
15 facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public,
16 students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any
17 more information than is required to protect individual or public safety or the security of public facilities.

18 (3) The Montana historical society may honor restrictions imposed by private record donors as long
19 as the restrictions do not apply to public information. All restrictions must expire no later than 50 years from the
20 date the private record was received. Upon the expiration of the restriction, the private records must be made
21 accessible to the public.

22 (4) (a) Except as provided in subsection (4)(b), records and information received by the [AGENCY
23 RESPONSIBLE FOR THE INTEGRATED DATA SYSTEM] from any local government, state agency and
24 department, or volunteer nongovernmental entity for the purposes of entry into the criminal justice integrated
25 data system pursuant to [sections 1 through 4] and all records created by a person authorized to research and
26 analyze information entered into the criminal justice integrated data system, regardless of whether the records
27 were previously exempted from disclosure or redacted pursuant to state or federal law or court order.

28 (b) This exemption does not apply to projects, reports, and data analyses approved for release by the

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Drafter: Rachel Weiss, 406-444-5367

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1 data oversight council and issued by a person authorized to conduct research and analyses as provided in
2 [sections 1 through 4]. Records and information related to the management of the criminal justice integrated
3 data system is not exempt from disclosure unless otherwise provided by law."
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5 NEW SECTION. ~~Section 6.~~ ~~Section 5.~~ **Two-thirds vote required.** Because [section 4(10)] limits
6 governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the
7 members of each house of the legislature for passage.
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- END -

DRAFT