

Mandatory Reporting in Montana

A PARTIAL HISTORY
OF 41-3-201, MCA

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Q: What year did the Montana Legislature add mandatory reporting to its current statutory designation (41-3-201, MCA)?

A: In 1965, the 39th Montana Legislature passed “An Act Providing for the Reporting of Physical Abuse or Wilful [sic] Neglect of Children,” which required health care practitioners, social workers, and teachers to report physical abuse and neglect and provided immunity to those who made reports.

Q: What do the years 2003, 2009, and 2015 have in common?

A: They are the only three legislative sessions (out of twelve) in this millennium that 41-3-201, MCA was *not* revised. Prior to the 2001 session, the Legislature revised this section ten times between 1973 and 1997.

This partial legislative history covers the years 2011 to present, with a brief look into a recent Montana Supreme Court Ruling.

2011

SB 304, sponsored by Sen. J. Shockley

Clarified in current subsection (1) that mandatory reports must report suspected abuse or neglect “by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare.”



2013

- **HB 131, sponsored by Rep. J. Gursky**
- Added language in current subsection (5), which allows the department to share information about a report with the mandatory reporter and certain other individuals.
- Information may be limited to that about the investigation's outcome and subsequent action that will be taken on behalf of the child who is the subject of the report.
- This language was modified in 2021.





2017

HB 303, sponsored by Rep. K. Kelker

Created the Child Abuse and Neglect Review Commission; modified 41-3-201 to allow the commission to receive information from the department on reports under current subsection (5).

The law creating the commission terminated in September 2021.

2019

HB 640, sponsored by Rep. S. Morigeau

- Revised several statutes related to sexual abuse of children.
- Added current subsection (2)(k) to 41-3-201, making DPHHS employees mandatory reporters while “in conduct of the employee’s duties.”
- Modified 41-3-202 to require the department to report certain allegations of child sexual abuse or sexual exploitation to county attorneys



2020

Nunez v. Watchtower, Montana Supreme Court

Excerpts from the case synopsis filed on January 1, 2020:

“The Montana Supreme Court reversed a \$35 million jury verdict in favor of Alexis Nunez on her claim that the Jehovah’s Witnesses were negligent as a matter of law when they failed to notify authorities of a 2004 child abuse report her uncle Peter McGowan made to a church elder...

Montana state statute expressly exempts clergy from mandatory child abuse reporting when a clergy member learns of the abuse in a communication that church doctrine or established church practices requires be kept confidential...

The Supreme Court held that the Jehovah’s Witnesses’ established doctrine and practice required elders to keep Peter McGowan’s disclosure confidential, and they were therefore excused from reporting by the state statute.”



2021

HB 364, sponsored by Rep. J. Trebas

Modified current subsection (5) to require department share information about a report with the prescribed individuals upon request by an individual.



2021

HB 459, sponsored by Rep. D. Lenz

- Provided for certification of child abuse specialists
- Required this certification within one year of hire for department employees who have regular interaction with minors, including employees who investigate reports of child abuse and neglect.
- Added certified child abuse specialists to current subsection (2)(e), making them mandatory reporters.



2023

HB 461, sponsored by Rep. L. Sheldon-Galloway

- Created requirements for DPHHS in 41-2-212 when taking reports of child abuse and neglect, including recording reports made by phone and taking the name and contact information of mandatory reporters.
- Clarified that reports made under this part, including the name of the reporter, are confidential.
- Modified 41-2-201 to note that the department must follow this statute when taking reports from mandatory reporters.

