_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: “AN ACT ALLOWING THE INSPECTOR GENERAL TO ACCESS CONFIDENTIAL CRIMINAL JUSTICE INFORMATION; AND AMENDING SECTION 44-5-302, MCA.”

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

Section 1. Section 44-5-302, MCA, is amended to read:

"**44-5-302. Dissemination of criminal history record information that is not public criminal justice information.** (1) Criminal history record information may not be disseminated to agencies or entities other than criminal justice agencies unless:

(a) the information is disseminated with the consent or at the request of the individual about whom it relates according to procedures specified in 44-5-214 and 44-5-215;

(b) a district court considers dissemination necessary;

(c) the information is disseminated in compliance with 44-5-304;

(d) the information is disseminated on the written request of an entity providing residential treatment or care for an individual that is:

(i) licensed as a long-term care facility as defined in 50-5-101;

(ii) licensed as a community residential facility as defined in 76-2-411(1) or (3); or

(iii) providing a home-like setting for individuals working on maintaining their sobriety; ~~or~~

(e) the agency receiving the information is authorized by law to receive it; or

(f) the information is disseminated to the office of inspector general for investigations, reviews, and surveys associated with department of health and human services programs.

(2) The department of justice and other criminal justice agencies may accept fingerprints of applicants for admission to the state bar of Montana and shall, with respect to a bar admission applicant whose fingerprints are given to the department or agency by the state bar, exchange available state, multistate, local,

federal (to the extent allowed by federal law), and other criminal history record information with the Montana supreme court and its commission on character and fitness for licensing purposes.

(3) An entity meeting the requirements of subsection (1)(d) may receive the information on an individual who:

(a) is receiving or has requested services from an entity meeting the requirements of subsection (1)(d);

(b) is under a current order of commitment to the Montana state hospital or another mental health facility pursuant to 46-14-202 or 46-14-221 in connection with a prosecution in which the individual has been charged with a sexual offense or a violent offense, as defined in 46-23-502; or

(c) has been committed to the custody of the director of the department of public health and human services pursuant to 46-14-301 after being found not guilty of a sexual offense or a violent offense, as defined in 46-23-502, for the reason that due to a mental disease or disorder the defendant could not have a particular state of mind that is an essential element of the offense charged.

(4) In making a request for criminal history record information, the entity requesting the information shall:

(a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and

(b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c).

(5) The prosecutor shall disseminate the requested criminal history record information to an entity meeting the requirements of subsection (1)(d) when the individual about whom the information relates has provided written consent to the dissemination.

(6) If an individual about whom the information relates and who meets the criteria described in subsection (3)(a), (3)(b), or (3)(c) objects to the dissemination of the information to an entity meeting the requirements of subsection (1)(d), the procedure described in 44-5-303(1) applies.

(7) (a) Confidential criminal justice information received pursuant to subsections (1)(d) and (3) may be shared only with employees of the entity requesting the information to make treatment-related decisions,

including decisions related to the safety of the individual for whom criminal history record information was obtained and for other persons in the treatment setting. Any person receiving criminal history record information shall maintain the confidentiality of the information.

(b) A person who obtains confidential criminal justice information pursuant to subsections (1)(d) and (3) by misrepresenting the purpose of the request or who shares criminal history record information or any other confidential criminal justice information received pursuant to subsections (1)(d) and (3) with persons not authorized to receive the information is guilty of a misdemeanor and, on conviction, is punishable by a fine of not more than $1,000 or imprisonment in a county jail for a term not to exceed 1 year, or both."

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