

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SEXUAL ABUSE AND EXPLOITATION REPORTING  
5 LAWS; REQUIRING THE COUNTY ATTORNEY TO REQUEST ASSISTANCE FROM THE DEPARTMENT OF  
6 PUBLIC HEALTH AND HUMAN SERVICES REGARDING IDENTIFICATION AND INCLUDE IN THE REPORT  
7 TO THE ATTORNEY GENERAL THE NUMBER OF REPORTS THAT WERE NOT PROSECUTED;  
8 PROVIDING REPORTING REQUIREMENTS FOR THE ATTORNEY GENERAL TO REPORT TO THE  
9 INTERIM BUDGET COMMITTEES; MODIFYING REPORTING REQUIREMENTS FOR REPORTS ON  
10 ADDITIONAL INFORMATION TO THE LAW AND JUSTICE INTERIM COMMITTEE; AND AMENDING  
11 SECTIONS 41-3-210, 41-3-211, AND 41-3-212, MCA."

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

15 **Section 1.** Section 41-3-210, MCA, is amended to read:

16        "41-3-210. County attorney duties -- certification -- retention of records -- reports to attorney  
17        general and legislature -- attorney general report. (1) (a) The county attorney shall gather all case notes,  
18        correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the  
19        department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within  
20        the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. If  
21        the alleged perpetrator of the sexual abuse or sexual exploitation is not identified, the county attorney shall  
22        request the department to provide the name or other available information to assist in identifying the alleged  
23        perpetrator. After a report is made or an investigation is commenced, the following individuals or entities shall  
24        provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative  
25        materials related to the report or investigation:

26 (i) the department;

27 (ii) state and local law enforcement; and

28 (iii) all members of a county or regional interdisciplinary child information and school safety team

1        established under 52-2-211.

2            (b)        The duty to provide records to the county attorney under subsection (1)(a) remains throughout  
3        the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the  
4        prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

5            (c)        Upon receipt of a report from the department, as required in 41-3-202, that includes an  
6        allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing  
7        to the person who initially reported the information that the county attorney received the report. The certification  
8        must include the date the report was received and the age and gender of the alleged victim. If the report was  
9        anonymous, the county attorney shall provide the certification to the department. If the report was made to the  
10      county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

11           (2)        The county attorney shall retain records relating to the report or investigation, including the  
12      certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

13           (3)        On or before January 1 and June-July 1 of each year, each county attorney shall report to the  
14      attorney general. The report to the attorney general must include, for each report from the department or  
15      investigation by law enforcement:

16           (a)        a unique case identifier;  
17           (b)        the date that the initial report or allegation was received by the county attorney;  
18           (c)        the date any charges were filed;  
19           (d)        the date of any decision to decline to prosecute;  
20           (e)        if charges are filed against a defendant, whether a conviction was obtained and, if a conviction  
21      was obtained, the sentence imposed by the court; and

22           (f)        the number of certifications made as required by subsection (1)(c), including the number of  
23      certifications made to the department; and

24           (g)        of the reports submitted pursuant to 41-3-202(1)(b), the number of reports presented that have  
25      not resulted in a prosecution or a declination of prosecution within 2 years of the date of the initial report  
26      received by the county attorney, and the basis for not making a decision on whether to prosecute or decline  
27      prosecution in the matters reported.

28           (4)        (a) The attorney general shall create a form for county attorneys to use when submitting reports

1 required by subsection (3). The form must allow collection of the information required by subsection (3) on an  
2 aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to  
3 prosecute.

4 (b) The information provided by a county attorney on the forms is confidential criminal justice  
5 information as defined in 44-5-103.

6 (5) The attorney general shall report to the law and justice interim committee and the interim  
7 budget committees in 5-12-501(2)(b) and (2)(d) each year by August 15 and as provided in 5-11-210. The  
8 reports must provide:

9 (a) aggregated information regarding the status of the cases reported in subsection (3) by the  
10 county attorneys, except for those cases pending review of the county attorney or uncharged cases still under  
11 investigation, including data on the total number of cases reported;

12 (b) the number of cases declined for prosecution in the prior fiscal year;

13 (c) the number of cases charged in the prior fiscal year;

14 (d) the name initials of each defendant charged in the prior fiscal year who had been identified in  
15 the reports submitted pursuant to 41-3-202(1)(b) as an alleged perpetrator of sexual abuse or sexual  
16 exploitation and was charged based upon the conduct alleged;

17 (e) the name initials of each defendant identified in the reports submitted pursuant to 41-3-  
18 202(1)(b) as an alleged perpetrator of sexual abuse or sexual exploitation for whom a conviction was obtained  
19 based upon the conduct alleged;

20 (f) the name initials of each defendant identified in the reports submitted pursuant to 41-3-  
21 202(1)(b) as an alleged perpetrator of sexual abuse or sexual exploitation for whom a sentence was imposed  
22 based upon the conduct alleged and the sentence imposed by the court for the defendant;

23 (d)(g) any action in the past fiscal year that the attorney general took under the authority of 2-15-501  
24 based on the reports submitted as required in subsection (3). A report made pursuant to this subsection  
25 (5)(d)(g) may not include the name of the county.

26 (h) the number of reports from the department pursuant to 41-3-211(2); and

27 (e)(i) after consideration of the information provided by the department pursuant to 41-3-211,  
28 identification of any county attorney who failed to provide a complete report required by subsection (3)."