

SENATE BILL NO. 437

INTRODUCED BY C. GLIMM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEFINITION FOR THE WORDS SEX, FEMALE, ~~AND-MALE~~, MAN, WOMAN, FATHER, AND MOTHER WHEN REFERRING TO A HUMAN; PROVIDING THAT THE DEFINITION OF SEX REFERS TO BIOLOGICAL SEX AND NOT GENDER IDENTITY OR SEXUAL INTERCOURSE; PROVIDING THAT THE DEFINITION OF SEX IS LIMITED TO TWO TYPES OF SEXES WHICH ARE REFERRED TO AS MALE AND FEMALE; PROVIDING THAT THE DEFINITIONS OF MALE, ~~AND-FEMALE~~, MAN, WOMAN, FATHER, AND MOTHER REFER TO BIOLOGICAL SEX AND NOT SUBJECTIVE GENDER IDENTITY; CLARIFYING THE MEANING OF THE TERM "GENDER"; AMENDING SECTIONS 2-18-208, 2-18-606, 7-15-4207, 7-34-2123, 10-2-403, 13-27-408, 13-35-301, 13-38-201, 13-38-203, 13-38-205, 19-2-802, 20-6-808, 20-7-1306, 20-7-1703, 20-9-327, 20-11-116, 20-25-501, 20-25-707, 22-2-306, 23-2-505, 33-1-201, 35-20-209, 39-2-912, 39-29-101, 39-71-401, 40-1-107, 40-1-311, 40-1-401, 40-5-804, 40-5-907, 40-5-1031, 40-6-701, 40-6-703, 41-3-210, 41-5-103, 42-2-204, 44-2-411, 44-2-412, 45-5-625, 46-18-101, 46-19-301, 46-19-401, 49-1-102, 49-2-101, 49-3-101, 50-4-720, 50-5-105, 50-5-602, 50-11-101, 50-15-101, 50-19-103, 50-19-501, 50-60-214, 53-20-142, 53-21-121, 53-21-142, 53-24-310, 53-30-312, 60-5-514, 60-5-522, 61-5-107, 72-1-103, 72-17-106, AND 90-14-104, MCA; REPEALING SECTION 1-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, in human beings, there are two -- and only two -- sexes: male and female, which refer to the two body structures (phenotypes) that, in normal development, correspond to one or the other gamete -- sperm for males and ova for females; and

WHEREAS, every individual is either male or female; and

WHEREAS, an individual's sex can be observed or clinically verified at or before birth; and

WHEREAS, rare disorders of sexual development are not exceptions to the binary nature of sex; and

WHEREAS, in no case is an individual's sex determined by stipulation or self-identification; and

WHEREAS, there is increasing confusion about the definition and implications of sex as a biological

truth and its relationship to concepts and terms including but not limited to sex assigned at birth, gender, gender identity, gender role, gender expression, and experienced gender; and

WHEREAS, confusion and ambiguities surrounding the definitions of sex, male, female, and related terms can hinder individual efforts to enjoy equal treatment under the law; and

WHEREAS, legal equality of the two sexes -- male and female -- does not imply that the sexes are identical to each other or are the same in every respect; and

WHEREAS, with respect to the two sexes -- male and female -- separate facilities or sports leagues established because of or organized according to physical differences between the sexes do not constitute unequal treatment under the law; and

WHEREAS, physical differences between males and females are enduring, and the two sexes are not fungible.

THEREFORE, it is the intent of the Legislature of this state to clarify and reconcile the meaning of sex, male, female, and related terms in state laws, administrative rules, and guidelines.

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

NEW SECTION. Section 1. Terms of wide applicability. (1) Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(a) "Father" means a male parent.

(b) "Female" means a member of the human species who, under normal development, has XX chromosomes and produces or would produce relatively large, relatively immobile gametes, or eggs, during her life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is female, when used to refer to a natural person, an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that at some point produces, transports, and utilizes the large gamete, or ova, for fertilization.

(b)(c) "Male" means a member of the human species who, under normal development, has XY chromosomes and produces or would produce small, mobile gametes, or sperm, during his life cycle and has a

~~reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is male, when used to refer to a natural person, an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that at some point produces, transports, and utilizes the small gamete, or sperm, for fertilization.~~

~~(e)(d)~~ "Man" means an adult human male, except when used as a generic reference to human beings.

~~(e)~~ "Mother" means a female parent.

~~(f)~~ "Oath" includes an affirmation or declaration.

~~(d)(g)~~ "Person" includes a corporation or other entity as well as a natural person.

~~(e)(h)~~ "Several" means two or more.

~~(f)(i)~~ "Sex" means ~~the organization of the body parts and gametes for reproduction in human beings and other organisms. In human beings, there are exactly two sexes, male and female, with two corresponding types of gametes. The sexes are determined by the biological and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, behavioral, social, chosen, or subjective experience of gender whether someone is male or female, which is distinguished based on the type of gamete, sperm or eggs, they are capable of or expected to produce, as dictated by their primary sexual anatomy. Because there are only two types of gametes, sperm and ova, with two corresponding reproductive systems, there are only two sexes: male and female. An individual's sex is rooted in reproductive anatomy and is in no way influenced or defined by one's psychological state, behavior, expression, or personal identity.~~

~~(g)(j)~~ "State", when applied to the different parts of the United States, includes the District of Columbia and the territories.

~~(h)(k)~~ "United States" includes the District of Columbia and the territories.

~~(l)~~ "Woman" means an adult human female.

(2) Wherever the word "man" or "men" or a word that includes the syllable "man" or "men" in combination with other syllables, such as "workman", appears in this code, the word or syllable includes "woman" or "women" unless the context clearly indicates a contrary intent and unless the subject matter of the

statute relates clearly and necessarily to a specific sex only.

(3) Whenever the term "heretofore" occurs in any statute, it must be construed to mean any time previous to the day the statute takes effect. Whenever the word "hereafter" occurs, it must be construed to mean the time after the statute containing the term takes effect.

(4) (a) The term "gender", when used alone to refer to a male, female, or the natural differences between a male and female:

(i) must be considered a synonym for sex; and

(ii) may not be considered a synonym or short-hand expression for gender identity, experienced gender, gender expression, or gender role.

(b) The term "gender" does not apply when it is used in conjunction with other words or as an adjective to modify other words, or when context or explicit definition in preexisting state law, administrative rules, or guidelines indicates otherwise.

(c) The term "gender identity", if used in state law, administrative rules, or guidelines, may not be considered a synonym or substitute for sex or gender.

Section 2. Section 2-18-208, MCA, is amended to read:

"2-18-208. Comparable worth. The department of administration shall, in its continuous efforts to enhance the current classification plan and pay schedules, work toward the goal of establishing a standard of equal pay for comparable worth. This standard for the classification plan shall be reached by:

(1) eliminating, in the classification of positions, the use of judgments and factors that contain inherent biases based on sex, as defined in 4-4-204 [section 1]; and

(2) comparing, in the classification of positions, the factors for determining job worth across occupational groups whenever those groups are dominated by males or females."

Section 3. Section 2-18-606, MCA, is amended to read:

"2-18-606. Parental leave for state employees. (1) The department of administration shall develop a parental leave policy for permanent state employees. The policy must permit an employee to take a reasonable leave of absence and permit the employee to use sick leave immediately following the birth or placement of a

child for a period not to exceed 15 working days if:

(a) the employee is adopting a child; or

(b) the employee is a birth father, as defined in [section 1].

(2) As used in this section, "placement" means placement for adoption as defined in 33-22-130.

(3) A state agency that is not subject to the provisions of the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 through 2654, may extend the provisions of that act to the employees of the agency."

Section 4. Section 7-15-4207, MCA, is amended to read:

"7-15-4207. Prohibition against discrimination. For all of the purposes of this part and part 43, a person may not be subjected to discrimination because of sex, as defined in ~~4-1-204~~ [section 1], race, creed, religion, age, physical or mental disability, color, or national origin."

Section 5. Section 7-34-2123, MCA, is amended to read:

"7-34-2123. Admission to district hospital facilities. Such a hospital district must admit persons to its facilities without regard to race, color, or sex, as defined in ~~4-1-204~~ [section 1]. Such obligation shall not prevent the board of trustees of such hospital district from establishing reasonable minimum rates for hospital quarters, services, and supplies. Indigents needing such services, for the rendition of which provision is made by the laws of Montana, must be admitted to such public hospitals on terms and rates prescribed or authorized by law."

Section 6. Section 10-2-403, MCA, is amended to read:

"10-2-403. Eligibility for residence in home. To be eligible for residence in a Montana veterans' home under rules prescribed by the department of public health and human services, a person must be a veteran or the spouse or surviving spouse of a veteran. Consideration must also be given to:

(1) the person's age;

(2) the person's physical and mental status;

(3) the person's ability or inability to locate suitable alternative accommodations;

(4) the person's term of residence in Montana;

(5) the person's gender, as provided in [section 1], as it relates to availability of appropriate living space;

(6) the ability of the Montana veterans' home to meet the person's needs; and

(7) other admission requirements established by the department."

Section 7. Section 13-27-408, MCA, is amended to read:

"13-27-408. Rejection of improper arguments. The secretary of state shall reject, with the approval of the attorney general, an argument or other matter held to contain obscene, vulgar, profane, scandalous, libelous, or defamatory matter; any language that in any way incites, counsels, promotes, or advocates hatred, abuse, violence, or hostility toward, or that tends to cast ridicule or shame upon, a group of persons by reason of race, color, religion, or sex, as defined in ~~1-4-201~~ [section 1]; or any matter not allowed to be sent through the mail. Such arguments may not be filed or printed in the voter information pamphlet."

Section 8. Section 13-35-301, MCA, is amended to read:

"13-35-301. Adoption of code of fair campaign practices. The following code of fair campaign practices is adopted by Montana:

"There are basic principles of decency, honesty, and fair play that every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues before the country.

Therefore:

I will conduct my campaign in the best American tradition, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponent and my opponent's party that merit such criticism.

I will defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I will conduct my campaign without the use of personal vilification, character defamation, whispering campaigns, libel, slander, or scurrilous attacks on my opposition or my opposition's personal or family life.

1 administrator shall declare elected by acclamation the candidate who filed for the position or who filed a
2 declaration of intent to be a write-in candidate. The election administrator shall issue a certificate of election to
3 the designated party.

4 (c) write-in votes for a precinct committee representative may be counted as specified in 13-15-
5 206(5) only if the individual whose name is written in has filed a declaration of intent as a write-in candidate by
6 the deadline prescribed in 13-10-211(1);

7 (d) in the case of a tie vote for a precinct committee representative position, the county central
8 committee shall determine a winner.

9 (5) Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled
10 by the party governing body as provided in its rules."
11

12 **Section 10.** Section 13-38-203, MCA, is amended to read:

13 **"13-38-203. Powers and duties of county and city central committees -- role of state central**
14 **committee where no county central committee exists.** (1) The county and city central committee may:

15 (a) make rules for the government of its political party in each county not inconsistent with any of
16 the provisions of the election laws of this state or the rules of its state political party;

17 (b) elect two county members of the state central committee, one of each gender, as provided in
18 [section 1], elect the members of the congressional committee, and fill all vacancies and make rules in their
19 jurisdiction.

20 (2) If there is no county central committee, the state central committee shall appoint a county
21 central committee.

22 (3) Meetings of a central committee that is filling an election vacancy pursuant to 13-10-326 or 13-
23 10-327 must be open to the public. Records of a central committee regarding filling a vacancy pursuant to 13-
24 10-326 or 13-10-327 must be made available for public inspection on request.

25 (4) County and city central committees are not public agencies of the state. The documents of the
26 county and city central committees are not public records."
27

28 **Section 11.** Section 13-38-205, MCA, is amended to read:

1 **"13-38-205. Organization and operation of county and city central committees.** (1) The county
2 central committee shall meet prior to the state convention of its political party and organize by electing a
3 presiding officer and one or more vice presiding officers. The gender, as provided in [section 1], of the presiding
4 officer and the vice presiding officer may not be the same. The county central committee shall elect a secretary
5 and other officers as necessary. It is not necessary for the officers to be precinct committee representatives.

6 (2) The committee may select managing or executive committees and authorize subcommittees to
7 exercise all powers conferred upon the county, city, state, and congressional central committees by the election
8 laws of this state.

9 (3) The presiding officer of the county central committee shall call the county convention and not
10 less than 4 days before the date of the county convention shall publish the call in a newspaper published at the
11 county seat and mail a copy of the call to each precinct committee representative. If party rules permit the use
12 of a proxy, a proxy may not be recognized unless it is held by an elector of the precinct of the committee
13 representative executing it.

14 (4) The county presiding officer of the party shall preside at the county convention. No person
15 other than a duly elected or appointed committee representative or officer of the committee is entitled to
16 participate in the proceedings of the committee.

17 (5) If a committee representative is absent, the convention may fill the vacancy by appointing some
18 qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

19 (6) The county convention shall elect delegates and alternate delegates to the state convention
20 under rules of the state party. The presiding officer and secretary of the county convention shall issue and sign
21 certificates of election of the delegates."

22
23 **Section 12.** Section 19-2-802, MCA, is amended to read:

24 **"19-2-802. Effect of no designation of beneficiary or no surviving statutory or designated**
25 **beneficiary.** (1) If a member or payment recipient fails to name a designated beneficiary or if a statutory or
26 designated beneficiary does not survive the member or payment recipient, the estate of the member or
27 payment recipient is entitled to any accrued lump-sum payment or accrued retirement benefit not received prior
28 to the member's or payment recipient's death. If the estate, as either a designated beneficiary or as a

beneficiary by default as provided in this subsection, would not be probated but for the amount due to the estate from the retirement system, all of the amount due to the estate must be paid directly, without probate, to the surviving next of kin of the deceased or the guardians of the survivor's estate, share and share alike.

(2) Payment must be made in the same order in which the following groups are listed:

(a) husband or wife;

(b) children;

(c) father and mother, as defined in [section 1];

(d) grandchildren;

(e) brothers and sisters; or

(f) nieces and nephews.

(3) A payment may not be made to a person included in any of the groups listed in subsection (2) if at the date of payment there is a living person in any of the groups preceding the group of which the person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon a form supplied by the board, that there are no living individuals in the groups preceding the group of which the person is a member and that the estate of the deceased will not be probated.

(4) The payment must be in full and complete discharge and acquittance of the board and system on account of the member's or payment recipient's death."

Section 13. Section 20-6-808, MCA, is amended to read:

"20-6-808. Enrollment. (1) (a) A public charter school must be open to any student residing in the state.

(b) A school district may not require a student enrolled in the school district to attend a public charter school.

(c) A public charter school may limit admission to students within a given age group or grade level.

(d) A public charter school may be organized for a special emphasis, theme, or concept as stated in the school's proposal.

(e) A public charter school shall enroll all students who wish to attend the school unless the number of students exceeds the capacity of a program, class, grade level, or building.

(f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.

(2) (a) A public charter school shall give enrollment preference to students who are residents of the located school district.

(b) A public charter school may give enrollment preference to:

(i) students who were enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. An enrollment preference for returning students excludes those students from entering a lottery.

(ii) children of members of a public charter school's governing board and full-time employees, limited to no more than 10% of the school's total student population.

(3) This section does not preclude the formation of a public charter school for the purpose of serving students with disabilities, students of the same gender, as provided in [section 1], students who pose a sufficiently severe disciplinary problem to warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend such a school, the public charter school shall select students through a lottery.

(4) If a student who was previously enrolled in a public charter school enrolls in any other public school in this state, the student's new school shall accept credits earned by the student in courses or instructional programs at the public charter school.

(5) A school district shall provide or publicize to parents and the general public information about public charter schools as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about noncharter public schools in the district.

(6) The board of public education may not restrict the number of students a public charter school may enroll. The capacity of the public charter school must be determined annually by the governing board in consideration of the public charter school's ability to facilitate the academic success of its students, to achieve the objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site."

Section 14. Section 20-7-1306, MCA, is amended to read:

1 24-301, 37-25-302, 37-39-308, 37-39-309, or 37-39-311; and

2 (ii) is employed by an entity listed in subsection (1) to provide services to students; or

3 (c) (i) holds an American Indian language and culture specialist license; and

4 (ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian
5 language immersion program pursuant to Title 20, chapter 7, part 14."

6

7 **Section 17.** Section 20-11-116, MCA, is amended to read:

8 **"20-11-116. Enrollment.** (1) (a) A community choice school must be open to any student residing in
9 the state.

10 (b) A school district may not require a student enrolled in the school district to attend a choice
11 school.

12 (c) A choice school may limit admission to students within a given age group or grade level.

13 (d) A choice school may be organized for a special emphasis, theme, or concept as stated in the
14 school's proposal.

15 (e) A choice school shall enroll all students who wish to attend the school unless the number of
16 students exceeds the capacity of a program, class, grade level, or building.

17 (f) If capacity is insufficient to enroll all students who wish to attend the school, the choice school
18 shall select students through a lottery.

19 (2) A traditional public school converting to a choice school shall adopt and maintain a policy
20 giving enrollment preference to students who reside within the former attendance area of that public school.

21 (3) (a) A choice school shall give enrollment preference to students who were enrolled in the
22 choice school the previous school year and to siblings of students already enrolled in the choice school. An
23 enrollment preference for returning students and siblings excludes those students from entering a lottery.

24 (b) A choice school may give enrollment preference to children of a choice school's employees
25 and governing board, limited to no more than 10% of the school's total student population.

26 (4) This section does not preclude the formation of a community choice school for the purpose of
27 serving students with disabilities, students of the same gender, as provided in [section 1], students who pose a
28 sufficiently severe disciplinary problem to warrant a specific educational program, or students who are at risk of

academic failure. If capacity is insufficient to enroll all students who wish to attend a school, the choice school shall select students through a lottery.

(5) If a student who was previously enrolled in a choice school enrolls in any other public school in this state, the student's new school shall accept credits earned by the student in courses or instructional programs at the choice school.

(6) A traditional school district shall provide or publicize to parents and the general public information about choice schools as an enrollment option within the district's physical, geographical boundaries to the same extent and through the same means that the district provides and publicizes information about traditional public schools in the district.

(7) An authorizer may not restrict the number of students a choice school may enroll. The capacity of the choice school must be determined annually by its governing board in conjunction with the authorizer and in consideration of the choice school's ability to facilitate the academic success of its students, to achieve the objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

(8) If the choice school is the only public school in a town, the choice school must give preference to enrolling pupils residing in the town or within 5 miles of the school if the next closest public school is more than 10 miles away from the student's residence."

Section 18. Section 20-25-501, MCA, is amended to read:

"20-25-501. Definitions. (1) Terms used in this part are defined as follows:

(a) "Domicile" means a person's true, fixed, and permanent home and place of habitation.

(b) "Minor" means a male or female, as defined in ~~4-4-204~~ [section 1], person who has not obtained the age of 18 years.

(c) "Qualified person" means a person legally qualified to determine the person's own domicile.

(d) "Resident student" means:

(i) a student who has been domiciled in Montana for 1 year immediately preceding registration at any unit for any term or session for which resident classification is claimed. Attendance as a full-time student at any college, university, or other institution of higher education is not alone sufficient to qualify for residence in

1 within 30 days after completion of the project, a final financial report and a narrative report stating what was
2 accomplished with the grant. Five percent of the total grant award must be held pending receipt of final reports
3 by the council. With regard to grantees who in the past have submitted late reports, 30% of the grant award
4 may be held pending receipt of final reports by the council.

5 (7) The council may, at the principal place of business of the grantee and during regular business
6 hours, examine any directly pertinent records, accounts, and documents of the grantee involving transactions
7 related to the grant."

8
9 **Section 21.** Section 23-2-505, MCA, is amended to read:

10 **"23-2-505. Owner's civil liability.** The owner of a vessel is liable for any injury or damage
11 occasioned by the negligent operation of the vessel, whether the negligence consists of a violation of the
12 provisions of the statutes of this state or neglecting to observe ordinary care and operation that the rules of the
13 common law require. However, the owner is not liable unless the vessel is being used with the owner's express
14 or implied consent. It must be presumed that the vessel is being operated with the knowledge and consent of
15 the owner if, at the time of the injury or damage, it is under the control of the owner's spouse, father as defined
16 in [section 1], mother as defined in [section 1], brother, sister, son, daughter, or other immediate member of the
17 owner's family. This section may not be construed to relieve any other person from any liability that the person
18 would otherwise have. However, this section may not be construed to authorize or permit any recovery in
19 excess of injury or damage actually incurred."

20
21 **Section 22.** Section 33-1-201, MCA, is amended to read:

22 **"33-1-201. Definitions -- insurance in general -- general terms.** For the purposes of this code, the
23 following definitions apply unless the context requires otherwise:

24 (1) "Alien insurer" is an insurer formed under the laws of any country other than the United States
25 or its states, districts, territories, and commonwealths.

26 (2) "Authorized insurer" is an insurer duly authorized by a certificate of authority issued by the
27 commissioner to transact insurance in this state.

28 (3) "Domestic insurer" is an insurer incorporated under the laws of this state.

1 (4) "Female" has the meaning provided in ~~4-1-204~~ [section 1].

2 (5) "Foreign insurer" is an insurer formed under the laws of any jurisdiction other than this state.

3 Except when distinguished by context, the term includes an alien insurer.

4 ~~(6)~~ (6) "Gender" has the meaning provided in [section 1].

5 ~~(6)(7)~~ (a) "Insurance" is a contract through which one undertakes to indemnify another or pay or
6 provide a specified or determinable amount or benefit upon determinable contingencies.

7 (b) The term does not include:

8 (i) contracts for the installation, maintenance, and provision of inside telecommunications wiring to
9 residential or business premises;

10 (ii) direct patient care agreements established pursuant to 50-4-107; or

11 (iii) an arrangement with a health care sharing ministry that meets the requirements of 50-4-111.

12 ~~(7)(8)~~ (a) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business
13 of entering into contracts of insurance. The term also includes a health service corporation in the provisions
14 listed in 33-30-102.

15 (b) The term does not include a health care sharing ministry that meets the requirements of 50-4-
16 111.

17 ~~(8)(9)~~ "Male" has the meaning provided in ~~4-1-204~~ [section 1].

18 ~~(9)(10)~~ "Resident domestic insurer" is an insurer incorporated under the laws of this state and:

19 (a) if a mutual company, not less than one-half of the policyholders are individuals who are
20 residents of this state; or

21 (b) if a stock insurer, not less than one-half of the shares are owned by individuals who are
22 residents of this state and all of the directors and officers of the insurer are residents of this state.

23 ~~(10)(11)~~ "Sex" has the meaning provided in ~~4-1-204~~ [section 1].

24 ~~(11)(12)~~ "State", when used in relation to jurisdiction, means a state, the District of Columbia, or a
25 territory, commonwealth, or possession of the United States.

26 ~~(12)(13)~~ "Transact", with respect to insurance, means to:

27 (a) solicit;

28 (b) negotiate;

(c) sell or effectuate a contract of insurance; or

(d) transact matters subsequent to effectuation of the contract of insurance and arising out of it.

~~(13)~~(14) "Unauthorized insurer" is an insurer not authorized by a certificate of authority issued by the commissioner to transact insurance in this state."

Section 23. Section 35-20-209, MCA, is amended to read:

"35-20-209. Duties of secretary -- record of interments. The secretary shall perform all the duties of a secretary of a corporation and shall, in addition, keep a record of interments in which the secretary shall enter as correctly and carefully as may be the name, age, sex, as defined in ~~4-4-204~~ [section 1], place of birth, and cause of death with date of burial of every person interred in the cemetery. The secretary shall procure these facts from friends or relatives of the deceased or the undertaker that gives the order for interment at that time or, if the deceased is a pauper, a stranger, or criminal, from the coroner, physician, or other public officer directing the burial of the deceased."

Section 24. Section 39-2-912, MCA, is amended to read:

"39-2-912. Exemptions. (1) This part does not apply to a discharge:

(a) that is subject to any other state or federal statute that provides a procedure or remedy for contesting the dispute. The statutes include those that prohibit discharge for filing complaints, charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national origin, sex, as defined in ~~4-4-204~~ [section 1], age, disability, creed, religion, political belief, color, marital status, and other similar grounds.

(b) of an employee covered by a written collective bargaining agreement or a written contract of employment for a specific term.

(2) For the purposes of this section, a contract for a specific term may contain a probationary period as provided for in 39-2-910 and may contain an automatic renewal clause that automatically renews the contract of employment for one or more successive terms."

Section 25. Section 39-29-101, MCA, is amended to read:

"39-29-101. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Armed forces" means the:

(a) United States army, marine corps, navy, air force, space force, and coast guard;

(b) merchant marine for service recognized by the United States department of defense as active military service for the purpose of laws administered by the department of veterans affairs; and

(c) Montana army and air national guard.

(2) "Disabled veteran" means a person:

(a) whether or not the person is a veteran who was separated under honorable conditions from military duty in the armed forces and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a law administered by the department of veterans affairs, a military department, or the state of Montana; or

(b) who has received a purple heart medal.

(3) "Eligible relative" means:

(a) the unmarried surviving spouse of a veteran or disabled veteran;

(b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

(c) the mother of a veteran who died under honorable conditions while serving in the armed forces

if:

(i) the mother's spouse is totally and permanently disabled; or

(ii) the mother is the widow of the father of the veteran and has not remarried;

(d) the mother of a service-connected permanently and totally disabled veteran if:

(i) the mother's spouse is totally and permanently disabled; or

(ii) the mother is the widow of the father of the veteran and has not remarried.

(4) "Father" has the meaning provided in [section 1].

(5) "Military duty" means duty with military pay and allowances in the armed forces.

(6) "Mother" has the meaning provided in [section 1].

~~(5)(7)~~ (a) "Position" means a position occupied by a permanent, temporary, or seasonal employee, as defined in 2-18-101, for the state or a similar permanent, temporary, or seasonal employee with a public employer other than the state.

(b) The term does not include:

(i) a state or local elected office;

(ii) appointment by an elected official to a body, such as a board, commission, committee, or council;

(iii) appointment by an elected official to a public office if the appointment is provided for by law;

(iv) a department head appointment by the governor or an executive department head appointment by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local government;

(v) engagement as an independent contractor or employment by an independent contractor; or

(vi) a position occupied by a student intern, as defined in 2-18-101.

~~(6)(8)~~ "Public employer" means:

(a) a department, office, board, bureau, commission, agency, or other instrumentality of the executive, legislative, or judicial branches of the government of this state;

(b) a unit of the Montana university system;

(c) a school district or community college; and

(d) a county, city, or town.

~~(7)(9)~~ "Scored procedure" means a written test, structured oral interview, performance test, or other selection procedure or a combination of these procedures that results in a numerical score to which percentage points may be added.

~~(8)(10)~~ (a) "Under honorable conditions" means a discharge or separation from military duty characterized by the armed forces as under honorable conditions. The term includes honorable discharges and general discharges.

(b) The term does not include dishonorable discharges or other administrative discharges characterized as other than honorable.

~~(9)(11)~~ "Veteran" means a person who:

(a) was separated under honorable conditions from active federal military duty in the armed forces after having served more than 180 consecutive days, other than for training;

(b) as a member of a reserve component under an order of federal duty pursuant to 10 U.S.C.

12301(a), (d), or (g), 10 U.S.C. 12302, or 10 U.S.C. 12304 served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from duty under honorable conditions; or

(c) is or has been a member of the Montana army or air national guard and who has satisfactorily completed a minimum of 6 years of service in the armed forces, the last 3 years of which have been served in the Montana army or air national guard."

Section 26. Section 39-71-401, MCA, is amended to read:

"39-71-401. Employments covered and exemptions -- elections -- notice. (1) Except as provided in subsection (2), the Workers' Compensation Act applies to all employers and to all employees. An employer who has any employee in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3 unless the provisions of 39-71-442 apply. Each employee whose employer is bound by the Workers' Compensation Act is subject to and bound by the compensation plan that has been elected by the employer.

(2) Unless the employer elects coverage for these employments under this chapter and an insurer allows an election, the Workers' Compensation Act does not apply to any of the following:

- (a) household or domestic employment;
- (b) casual employment;
- (c) employment of a dependent member of an employer's family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code;
- (d) employment of sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company, except as provided in subsection (3);
- (e) employment of a real estate, securities, or insurance salesperson paid solely by commission and without a guarantee of minimum earnings;
- (f) employment as a direct seller as defined by 26 U.S.C. 3508;
- (g) employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;

(h) employment of a person performing services in return for aid or sustenance only, except employment of a volunteer under 67-2-105;

(i) employment with a railroad engaged in interstate commerce, except that railroad construction work is included in and subject to the provisions of this chapter;

(j) employment as an official, including a timer, referee, umpire, or judge, at an amateur athletic event;

(k) employment of a person performing services as a newspaper carrier or freelance correspondent if the person performing the services or a parent or guardian of the person performing the services in the case of a minor has acknowledged in writing that the person performing the services and the services are not covered. As used in this subsection (2)(k):

(i) "freelance correspondent" means a person who submits articles or photographs for publication and is paid by the article or by the photograph; and

(ii) "newspaper carrier":

(A) means a person who provides a newspaper with the service of delivering newspapers singly or in bundles; and

(B) does not include an employee of the paper who, incidentally to the employee's main duties, carries or delivers papers.

(l) cosmetologist's services and barber's services as referred to in 39-51-204(1)(e);

(m) a person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the exterior boundaries of an Indian reservation;

(n) employment of a jockey who is performing under a license issued by the board of horseracing from the time that the jockey reports to the scale room prior to a race through the time that the jockey is weighed out after a race if the jockey has acknowledged in writing, as a condition of licensing by the board of horseracing, that the jockey is not covered under the Workers' Compensation Act while performing services as a jockey;

(o) employment of a trainer, assistant trainer, exercise person, or pony person who is performing services under a license issued by the board of horseracing while on the grounds of a licensed race meet;

(p) employment of an employer's spouse for whom an exemption based on marital status may be claimed by the employer under 26 U.S.C. 7703;

(q) a person who performs services as a petroleum land professional. As used in this subsection, a "petroleum land professional" is a person who:

(i) is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or in negotiating a business agreement for the exploration or development of minerals;

(ii) is paid for services that are directly related to the completion of a contracted specific task rather than on an hourly wage basis; and

(iii) performs all services as an independent contractor pursuant to a written contract.

(r) an officer of a quasi-public or a private corporation or, except as provided in subsection (3), a manager of a manager-managed limited liability company who qualifies under one or more of the following provisions:

(i) the officer or manager is not engaged in the ordinary duties of a worker for the corporation or the limited liability company and does not receive any pay from the corporation or the limited liability company for performance of the duties;

(ii) the officer or manager is engaged primarily in household employment for the corporation or the limited liability company;

(iii) the officer or manager either:

(A) owns 10% or more of the number of shares of stock in the corporation or owns 10% or more of the limited liability company; or

(B) owns less than 10% of the number of shares of stock in the corporation or limited liability company if the officer's or manager's shares when aggregated with the shares owned by a person or persons listed in subsection (2)(r)(iv) total 10% or more of the number of shares in the corporation or limited liability company; or

(iv) the officer or manager is the spouse, child, adopted child, stepchild, mother as defined in [section 1], father as defined in [section 1], son-in-law, daughter-in-law, nephew, niece, brother, or sister of a corporate officer who meets the requirements of subsection (2)(r)(iii)(A) or (2)(r)(iii)(B);

(s) a person who is an officer or a manager of a ditch company as defined in 27-1-731;

(t) service performed by an ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by the order;

(u) service performed to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves when the person providing the service is employed directly by a family member or an individual who is a legal guardian;

(v) employment of a person performing the services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meets the definition of a broker or freight forwarder, as provided in 49 U.S.C. 13102;

(w) employment of a person who is not an employee or worker in this state as defined in 39-71-118(8);

(x) employment of a person who is working under an independent contractor exemption certificate;

(y) employment of an athlete by or on a team or sports club engaged in a contact sport. As used in this subsection, "contact sport" means a sport that includes significant physical contact between the athletes involved. Contact sports include but are not limited to football, hockey, roller derby, rugby, lacrosse, wrestling, and boxing.

(z) a musician performing under a written contract.

(3) (a) (i) A person who regularly and customarily performs services at locations other than the person's own fixed business location shall elect to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3 unless the person has waived the rights and benefits of the Workers' Compensation Act by obtaining an independent contractor exemption certificate from the department pursuant to 39-71-417.

(ii) Application fees or renewal fees for independent contractor exemption certificates must be deposited in the state special revenue account established in 39-9-206 and must be used to offset the certification administration costs.

(b) A person who holds an independent contractor exemption certificate may purchase a workers' compensation insurance policy and with the insurer's permission elect coverage for the certificate holder.

(c) For the purposes of this subsection (3), "person" means:

(i) a sole proprietor;

(ii) a working member of a partnership;

(iii) a working member of a limited liability partnership;

(iv) a working member of a member-managed limited liability company; or

(v) a manager of a manager-managed limited liability company that is engaged in the work of the construction industry as defined in 39-71-116.

(4) (a) A corporation or a manager-managed limited liability company shall provide coverage for its employees under the provisions of compensation plan No. 1, 2, or 3. A quasi-public corporation, a private corporation, or a manager-managed limited liability company may elect coverage for its corporate officers or managers, who are otherwise exempt under subsection (2), by giving a written notice in the following manner:

(i) if the employer has elected to be bound by the provisions of compensation plan No. 1, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company; or

(ii) if the employer has elected to be bound by the provisions of compensation plan No. 2 or 3, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company and to the insurer.

(b) If the employer changes plans or insurers, the employer's previous election is not effective and the employer shall again serve notice to its insurer and to its board of directors or the management organization of the manager-managed limited liability company if the employer elects to be bound.

(5) The appointment or election of an employee as an officer of a corporation, a partner in a partnership, a partner in a limited liability partnership, or a member in or a manager of a limited liability company for the purpose of exempting the employee from coverage under this chapter does not entitle the officer, partner, member, or manager to exemption from coverage.

(6) Each employer shall post a sign in the workplace at the locations where notices to employees are normally posted, informing employees about the employer's current provision of workers' compensation insurance. A workplace is any location where an employee performs any work-related act in the course of employment, regardless of whether the location is temporary or permanent, and includes the place of business or property of a third person while the employer has access to or control over the place of business or property

for the purpose of carrying on the employer's usual trade, business, or occupation. The sign must be provided by the department, distributed through insurers or directly by the department, and posted by employers in accordance with rules adopted by the department. An employer who purposely or knowingly fails to post a sign as provided in this subsection is subject to a \$50 fine for each citation."

Section 27. Section 40-1-107, MCA, is amended to read:

"40-1-107. Form of application, license, marriage certificate, and consent. (1) The director of the department of public health and human services shall prescribe the form for an application for a marriage license, which must include the following information:

(a) name, sex, as defined in ~~4-1-204~~ [section 1], address, [social security number,] and date and place of birth of each party to the proposed marriage;

(b) if either party was previously married, the party's name and the date, place, and court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;

(c) name and address of the parents or guardian of each party; and

(d) whether the parties are related to each other and, if so, their relationship.

(2) The director of the department of public health and human services shall prescribe the forms for the marriage license, the marriage certificate, and the consent to marriage.

[(3) The license, certificate, or consent may not contain the social security number, and the department shall keep the number from this source confidential, except that the department may use the number in administering Title IV-D of the Social Security Act.]

(4) The information contained in the marriage license application is subject to the disclosure restrictions provided in 50-15-122(5). (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 28. Section 40-1-311, MCA, is amended to read:

"40-1-311. Declaration of marriage without solemnization. (1) Persons may consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301. The declaration must be filed by the clerk of the district court in the county where the contract was executed.

(2) A declaration of marriage must contain substantially the following:

(a) the names, ages, and residences of the parties;

(b) the fact of marriage;

(c) the name of father and maiden name of mother, as defined in [section 1], of both parties and address of each;

(d) a statement that both parties are legally competent to enter into the marriage contract.

(3) The declaration must be subscribed by the parties and attested by at least two witnesses and formally acknowledged before the clerk of the district court of the county.

(4) The fee for filing a declaration is \$53 and must be paid to the clerk at time of filing."

Section 29. Section 40-1-401, MCA, is amended to read:

"40-1-401. Prohibited marriages -- contracts. (1) The following marriages are prohibited:

- (a) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;
- (b) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood, or between first cousins;
- (c) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;
- (d) a marriage between persons of the same sex, as defined in ~~4-4-201~~ [section 1].
- (2) Parties to a marriage prohibited under this section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.
- (3) Children born of a prohibited marriage are legitimate.
- (4) A contractual relationship entered into for the purpose of achieving a civil relationship that is prohibited under subsection (1) is void as against public policy."

Section 30. Section 40-5-804, MCA, is amended to read:

"40-5-804. Definitions. For purposes of this part, the following definitions apply:

- (1) "Child" means an individual, whether over or under 18 years of age, to whom or on whose behalf a legal duty of support is owed by a parent. The term includes but is not limited to a child enrolled or

1 eligible for enrollment under a health benefit plan or individual insurance policy.

2 (2) "Child support guidelines" means guidelines adopted under the provisions of 40-5-209.

3 (3) "COBRA" means the federal Consolidated Omnibus Budget Reconciliation Act of 1985, under
4 which dependent children of employees may continue to receive, for a limited time under specific
5 circumstances, health plan coverage after termination of employment.

6 (4) "Department" means the department of public health and human services as provided for in 2-
7 15-2201.

8 (5) (a) "Health benefit plan" or "plan" means a group health benefit plan or combination of plans
9 that provides medical care or benefits for a child. The term includes but is not limited to a health maintenance
10 organization, self-funded group, state or local government group health plan, church group plan, medical or
11 health service corporation, or similar plan.

12 (b) The term does not include public health coverage if other medical insurance is available to one
13 or both of the parents at a reasonable cost and is accessible for the child.

14 (6) "Individual insurance" means health or medical insurance coverage other than a group health
15 benefit plan or public assistance that is or may be provided individually for a child.

16 (7) "Medical care" means diagnosis, cure, mitigation, treatment, or prevention of disease, illness,
17 or injury, including well baby checkups, periodic examinations, and any other undertaking for the purpose of
18 affecting any structure or function of the body.

19 (8) "Medical support order" means a judgment, decree, or order, including approval of a settlement
20 agreement issued by a tribunal of competent jurisdiction, that provides for the medical care of a child and that
21 complies with the requirements of this part.

22 (9) "Obligated parent" means the parent who is required by a medical support order to provide for
23 the medical care of a child. The obligated parent is not necessarily the same as an obligor for child support.

24 (10) "Parent" means a father or mother, as defined in [section 1], and includes a child's guardian or
25 other adult caretaker having lawful charge of the child.

26 (11) "Payor" or "payor of income" means a person, firm, corporation, association, union, employer,
27 trustee, political subdivision, state agency, or any agent thereof who pays income to a parent on a periodic
28 basis, who has or provides individual insurance or a health benefit plan, and who is subject to the jurisdiction of

1 this state under Rule 4(b) of the Montana Rules of Civil Procedure or any employer under the Uniform Interstate
2 Family Support Act.

3 (12) "Plan administrator" means the person or entity, including but not limited to a state or local
4 government or church, that assesses and collects premiums, accepts and processes claims, and pays benefits.

5 (13) "Primary parent" means the parent with whom the child resides for the most 24-hour periods in
6 a plan year.

7 (14) "Qualified medical child support order" means an order that meets the requirements of 29
8 U.S.C. 1169.

9 (15) "Third-party custodian" means an agency or person other than a parent who:

10 (a) is authorized by legal process to have physical custody of a child;

11 (b) has actual physical custody of a child with the written consent of the parent or parents having
12 legal custody of the child; or

13 (c) has actual physical custody of a child because of the parents' neglect, failure, or inability to
14 provide for the child's support, medical care, and other needs.

15 (16) "Tribunal" means a court of competent jurisdiction or the department."
16

17 **Section 31.** Section 40-5-907, MCA, is amended to read:

18 **"40-5-907. Case registry -- abstracts -- information required -- mandatory updating.** (1) There
19 must be registered in the case registry an abstract of:

20 (a) each case, including interstate cases, receiving IV-D services provided by the department;

21 (b) each support order entered and each modification of an existing support order made in this
22 state after October 1, 1998; and

23 (c) each subsequent order or action establishing, modifying, adjusting, granting relief from,
24 terminating, or otherwise affecting a support order in a registered case.

25 (2) Each abstract must include:

26 (a) the name, sex, as defined in ~~4-4-204~~ section 1, [social security number, other] identification
27 numbers, if any, date of birth, driver's license number, telephone number, and residential and mailing
28 addresses of the parents;

1

2 **Section 34.** Section 40-6-703, MCA, is amended to read:

3 **"40-6-703. Parental involvement in education.** (1) The board of trustees of a school district, in
4 consultation with parents, teachers, and administrators, shall develop and adopt a policy to promote the
5 involvement of parents of children enrolled in the school district, including:

6 (a) a plan for parent participation in the school district, which must be designed to improve parent
7 and teacher cooperation in homework, attendance, and discipline;

8 (b) a plan to provide parents with information about how to participate in the governance of the
9 school district through the locally elected board of trustees;

10 (c) procedures by which a parent may learn about the course of study for the parent's child;

11 (d) procedures by which a parent may withdraw the parent's child from instruction or presentations,
12 assemblies, guest lectures, or other educational events facilitated by a school's faculty or staff, including those
13 conducted by outside individuals or organizations, that offend the parent's beliefs or practices;

14 (e) procedures by which a parent may learn about the nature and purpose of clubs and
15 extracurricular activities that have been approved by the school or that the school is required to allow under the
16 provisions of the federal Equal Access Act of 1984 and may withdraw the parent's child from any club or
17 extracurricular activity. A student shall provide a signed parental permission form prior to participating in any
18 school-sponsored club or extracurricular activity.

19 (f) procedures by which a parent shall provide written consent before the parent's child uses a
20 pronoun that does not align with the child's sex, as defined in [subsection-section 1]. If a parent provides written
21 consent under this subsection (1)(f), a person may not be compelled to use pronouns that do not align with the
22 child's sex, as defined in [subsection-section 1].

23 (g) procedures by which a parent may learn about parental rights and responsibilities under the
24 laws of this state.

25 (2) The board of trustees of a school district may adopt a policy providing that parents may submit
26 and receive the information required by this section in electronic form."

27

28 **Section 35.** Section 41-3-210, MCA, is amended to read:

"41-3-210. County attorney duties -- certification -- retention of records -- reports to attorney general and legislature -- attorney general report. (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

- (i) the department;
- (ii) state and local law enforcement; and
- (iii) all members of a county or regional interdisciplinary child information and school safety team established under 52-2-211.

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

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing to the person who initially reported the information that the county attorney received the report. The certification must include the date the report was received and the age and gender, as provided in [section 1], of the alleged victim. If the report was anonymous, the county attorney shall provide the certification to the department. If the report was made to the county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

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

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

- (a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court; and

(f) the number of certifications made as required by subsection (1)(c), including the number of certifications made to the department.

(4) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (3). The form must allow collection of the information required by subsection (3) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

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

(5) The attorney general shall report to the law and justice interim committee each year by August 15 and as provided in 5-11-210. The reports must provide:

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

(b) the number of cases declined for prosecution;

(c) the number of cases charged;

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

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

Section 36. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. As used in the Montana Youth Court Act, unless the context requires

1 resolve, or control the youth's behavior; or

2 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,
3 chooses to regard as a youth in need of intervention."
4

5 **Section 37.** Section 42-2-204, MCA, is amended to read:

6 **"42-2-204. Presumed knowledge of pregnancy -- duty to register to be afforded notice --**

7 **putative and presumed fathers.** (1) A person who engages in sexual relations with a member of the opposite
8 sex, as defined in ~~4-4-204~~ [section 1], is presumed to know that a pregnancy could result.

9 (2) In addition to any other notice to which the putative father is entitled, a putative father is entitled
10 to notice of termination of parental rights proceedings for the purposes of adoption if the putative father has
11 complied with the requirements of the putative father registry.

12 (3) An individual who is not married to the mother but who is presumed to be a father under 40-6-
13 105 and registers in accordance with this part is entitled to receive notice of a termination of parental rights
14 proceeding."
15

16 **Section 38.** Section 44-2-411, MCA, is amended to read:

17 **"44-2-411. (Temporary) Missing indigenous persons task force -- membership -- duties --**

18 **reporting.** (1) There is a missing indigenous persons task force. The task force is allocated to the department
19 of justice for staffing services and administrative purposes only.

20 (2) Task force members, including the presiding officer, must be appointed by the attorney general
21 or a designee of the attorney general. The task force membership must include but is not limited to:

22 (a) an employee of the department of justice who has expertise in the subject of missing persons;

23 (b) a representative from each federally recognized Indian tribe in Montana;

24 (c) a member from the Montana highway patrol;

25 (d) a representative from the attorney general's office; and

26 (e) a representative from the office of public instruction.

27 (3) While respecting the government-to-government relationship between the state and each tribe,
28 the primary duties of the task force are to:

- (a) identify jurisdictional barriers between federal, state, local, and tribal law enforcement and community agencies;
- (b) work to identify causes that contribute to missing and murdered indigenous persons and make recommendations to federally recognized tribes in the state to reduce cases of missing and murdered indigenous persons;
- (c) work to identify strategies to improve interagency communication, cooperation, and collaboration to remove jurisdictional barriers and increase reporting and investigation of missing indigenous persons; and
- (d) administer the looping in native communities network grant program provided for in 44-2-412.
- (4) A vacancy on the task force must be filled in the manner of the original appointment.
- (5) By July 1 prior to each regular legislative session, the task force shall, in accordance with 5-11-210, prepare a written report of findings and recommendations for submission to the state-tribal relations committee provided for in 5-5-229. The report must include the following information:
- (a) the number of unique individuals reported to the missing and murdered indigenous persons database;
- (b) the number of unique individuals recovered as a result of the missing and murdered indigenous persons database;
- (c) the number of unique individuals recovered as a result of the looping in native communities network grant program;
- (d) the number of unique individuals searched for and recovered as a result of missing persons response teams;
- (e) the number of missing persons entries into the missing and murdered indigenous persons database by year;
- (f) an analysis by year of the characteristics of missing indigenous persons, including but not limited to age, gender, as provided in [section 1], child protective services involvement status, foster case status, duration of time missing, and estimated related cause;
- (g) the number of actively missing indigenous persons by year;
- (h) a description and the results of any noncompetitive grant awardee activities;

(i) a description of the activities and progress related to improving interagency communication, cooperation, and collaboration and removing interjurisdictional barriers; and

(j) any other information the task force members find relevant to the task force's mission.

(6) In addition to the recommendations to federally recognized tribes in the state required under subsection (3)(b), the task force may make recommendations to federal, state, and local agencies in carrying out the task force's duties. (Terminates June 30, 2033--sec. 2, Ch. 624, L. 2023, sec. 3, Ch. 624, L. 2023, sec. 4, Ch. 624, L. 2023.)"

Section 39. Section 44-2-412, MCA, is amended to read:

"44-2-412. (Temporary) Looping in native communities network grant program. (1) There is a looping in native communities network grant program. The program is established to create a network in support of efforts by Montana tribes to identify, report, and find Native American persons who are missing. The grant program is administered by the missing indigenous persons task force established in 44-2-411.

(2) The grant program includes a competitive grant to be awarded to a tribal entity to create and administer a central administration point for the looping in native communities network. The missing indigenous persons task force shall develop the application and the criteria to award the grant to a tribal entity. The criteria must include:

(a) policies and standards for technology and equipment, including data storage and security of information entered into the network;

(b) standards for data verification;

(c) job qualifications and requirements for a data specialist to administer the network;

(d) development of a system to provide automatic initial alerts to law enforcement agencies and tribal and community organizations when a missing indigenous person report is made, including determining which law enforcement agencies will receive the automatic initial alert;

(e) development of a standard reporting form that includes space to provide the information specified in subsection (4) to be used by the data specialist; and

(f) administrative rights for a designee at each participating tribal agency.

(3) The grant program may include additional smaller, noncompetitive grants to be awarded to a

qualifying tribal agency at each reservation that submits a complete application. The purpose of the grants awarded under this subsection is to provide matching funds for some or all of the costs required for the tribal agency to set up and maintain access to the looping in native communities network.

(4) The standard reporting form required under subsection (2)(e) must allow a data specialist to enter information about the missing indigenous person, including but not limited to the missing person's:

(a) name and any aliases or nicknames;

(b) gender, as provided in [section 1], age, height, weight, and other physical descriptive characteristics;

(c) last known location and related information, including the date of last contact with the missing indigenous person and the person with whom the missing indigenous person last made contact; and

(d) photographs, including photographs obtained from an online or social media profile.

(Terminates June 30, 2033--sec. 2, Ch. 624, L. 2023, sec. 3, Ch. 624, L. 2023.)"

Section 40. Section 45-5-625, MCA, is amended to read:

"45-5-625. Sexual abuse of children. (1) A person commits the offense of sexual abuse of children if the person:

(a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(b) knowingly photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

(c) knowingly, by any means of communication, including electronic communication or in person, persuades, entices, counsels, coerces, encourages, directs, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated, or to view sexually explicit material or acts for the purpose of inducing or persuading a child to participate in any sexual activity that is illegal;

(d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

1 sexual response or desire of any person.

2 (c) "Simulated" means any depicting of the genitals or pubic or rectal area that gives the
3 appearance of sexual conduct or incipient sexual conduct.

4 (d) "Visual medium" means:

5 (i) any film, photograph, videotape, negative, slide, or photographic reproduction that contains or
6 incorporates in any manner any film, photograph, videotape, negative, or slide; or

7 (ii) any disk, diskette, or other physical media that allows an image to be displayed on a computer
8 or other video screen and any image transmitted to a computer or other video screen by telephone line, cable,
9 satellite transmission, or other method."

10

11 **Section 41.** Section 46-18-101, MCA, is amended to read:

12 **"46-18-101. Correctional and sentencing policy.** (1) It is the purpose of this section to establish the
13 correctional and sentencing policy of the state of Montana. Laws for the punishment of crime are drawn to
14 implement the policy established by this section.

15 (2) The correctional and sentencing policy of the state of Montana is to:

16 (a) punish each offender commensurate with the nature and degree of harm caused by the offense
17 and to hold an offender accountable;

18 (b) protect the public, reduce crime, and increase the public sense of safety by incarcerating
19 violent offenders and serious repeat offenders;

20 (c) provide restitution, reparation, and restoration to the victim of the offense; and

21 (d) encourage and provide opportunities for the offender's self-improvement to provide
22 rehabilitation and reintegration of offenders back into the community.

23 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
24 principles:

25 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

26 (b) Sentences should be commensurate with the punishment imposed on other persons
27 committing the same offenses.

28 (c) Sentencing practices must be neutral with respect to the offender's race, gender, as provided in

[section 1], religion, national origin, or social or economic status.

(d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating circumstances.

(e) Sentencing practices must include punishing violent and serious repeat felony offenders with incarceration.

(f) Sentencing practices must provide alternatives to imprisonment for the punishment of those nonviolent felony offenders who do not have serious criminal records.

(g) Sentencing and correctional practices must emphasize that the offender is responsible for obeying the law and must hold the offender accountable for the offender's actions.

(h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence must require an offender who is financially able to do so to pay restitution, costs as provided in 46-18-232, costs of assigned counsel, as provided in 46-8-113, and, if the offender is a sex offender, costs of any chemical treatment.

(i) Sentencing practices should promote and support practices, policies, and programs that focus on restorative justice principles."

Section 42. Section 46-19-301, MCA, is amended to read:

"46-19-301. Western Interstate Corrections Compact -- contents. The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I

PURPOSE AND POLICY

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on the basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for

otherwise qualified person who has a physical or mental disability. Any accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

(4) "Sex" has the meaning provided in ~~4-1-204~~ [section 1].

(5) "State or local governmental agency" means:

(a) any branch, department, office, board, bureau, commission, agency, university unit, college, or other instrumentality of state government; or

(b) a county, city, town, school district, or other unit of local government and any instrumentality of local government.

(6) "Qualifications" means qualifications that are genuinely related to competent performance of the particular occupational task."

Section 47. Section 50-4-720, MCA, is amended to read:

"50-4-720. Distribution of proceeds -- annual report. (1) Except as provided in subsection (5), the proceeds of a conversion transaction that are public assets must be distributed to an existing or new foundation or other nonprofit organization to be held in a trust that meets the following requirements:

(a) The foundation or nonprofit organization shall operate pursuant to 26 U.S.C. 501(c)(3) or 501(c)(4), and regardless of whether the foundation is classified as a private foundation under 26 U.S.C. 509, the foundation or nonprofit organization shall operate in accordance with the restrictions and limitations that apply to private foundations in 26 U.S.C. 4941 through 4945.

(b) The foundation or nonprofit organization must have a mission statement that is as close as possible to the mission of the converting nonprofit health entity.

(c) The foundation or nonprofit organization's assets may not be used to supplant government funds.

(d) The foundation or nonprofit organization may not be an agent or instrumentality of the government.

(e) The foundation or nonprofit organization and its directors, officers, and staff must be and shall remain independent of the parties to the conversion transaction and their affiliates. A person who is an officer, director, or staff member of a nonprofit health entity submitting a conversion plan at the time that the plan is

submitted or at the time of the conversion transaction or within 5 years after the conversion may not be an officer, director, or staff member of the foundation. A director, officer, agent, or employee of the nonprofit health entity submitting the plan or the foundation receiving the charitable assets may not benefit directly or indirectly from the transaction. Public officials, elected or appointed, may not serve as an officer, director, or staff member of the foundation or nonprofit organization.

(f) A foundation or nonprofit organization must have or shall establish formal mechanisms to avoid conflicts of interest and to prohibit grants benefiting:

(i) any party to the conversion transaction or members of the board of directors and management of a party to the conversion transaction; or

(ii) the foundation or nonprofit organization's board of trustees, directors, agents, or employees.

(g) Boards of trustees or directors of the foundation or nonprofit organization shall reflect the geographic, ethnic, gender, as provided in [section 1], age, socioeconomic, and other factors that the board considers to represent the diversity of the nonprofit health entity applicant's service area. In addition, trustees or directors must have the following qualifications and qualities:

(i) interest in and concern for the foundation or nonprofit organization and its mission;

(ii) objectivity and impartiality;

(iii) willingness and ability to commit time and thought to the foundation or nonprofit organization's affairs; and

(iv) commitment to the foundation or nonprofit organization as a whole and not to a special interest.

(h) Boards of trustees or directors must include persons with special knowledge, expertise, and skills in investments and asset management, finance, and nonprofit administration.

(2) A foundation or nonprofit organization that receives a distribution of public assets shall submit an annual report to the commissioner and to the attorney general regarding the award of grants and other charitable activities of the entity related to its use of the public assets received.

(3) The annual report submitted under subsection (2) must be made available to the public at the principal office of the foundation or nonprofit organization.

(4) The attorney general shall retain oversight and monitoring authority over the foundation or nonprofit organization that receives the proceeds of a proposed conversion transaction.

(5) Notwithstanding any other provision of this section, the proceeds of a conversion transaction that are public assets of a nonprofit mutual benefit corporation in which all of the members are nonprofit public benefit corporations may be distributed to the member nonprofit public benefit corporations if the articles of incorporation of the nonprofit mutual benefit corporation provide for that distribution."

Section 48. Section 50-5-105, MCA, is amended to read:

"50-5-105. Discrimination prohibited. (1) All phases of the operation of a health care facility must be without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, as defined in ~~4-4-204~~ [section 1], age, marital status, physical or mental disability, or political ideas.

(2) (a) A health care facility may not refuse to admit a person to the facility solely because the person has an HIV-related condition.

(b) For the purposes of this subsection (2), the following definitions apply:

(i) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired immunodeficiency syndrome (AIDS) and includes all HIV and HIV-related viruses that damage the cellular branch of the human immune or neurological system and leave the infected person immunodeficient or neurologically impaired.

(ii) "HIV-related condition" means any medical condition resulting from an HIV infection, including but not limited to seropositivity for HIV.

(3) A person who operates a facility may not discriminate among the patients of licensed physicians. The free and confidential professional relationship between a licensed physician and patient must continue and remain unaffected.

(4) Except for a hospital that employs its medical staff, a hospital considering an application for staff membership or granting privileges within the scope of the applicant's license may not deny the application or privileges because the applicant is licensed under Title 37, chapter 6."

Section 49. Section 50-5-602, MCA, is amended to read:

"50-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-

1 2201.

2 (2) "Family practice" means comprehensive medical care with particular emphasis on the family
3 unit, in which the physician's continuing responsibility for health care is not limited by the patient's age or sex,
4 as defined in ~~4-1-204~~ [section 1], or by a particular organ system or disease entity.

5 (3) "Residency training" means a community-based family practice program to train family practice
6 resident physicians, sponsored by one or more community hospitals and physicians in Montana, for inpatient
7 and outpatient training.

8 (4) "Resident physician" means any physician in advanced medical specialty training."
9

10 **Section 50.** Section 50-11-101, MCA, is amended to read:

11 **"50-11-101. Definitions.** As used in this part, the following definitions apply:

12 (1) "Embryo" means an organism of the species Homo sapiens from the single cell stage to 8
13 weeks of development.

14 (2) "Female" has the meaning provided in ~~4-1-204~~ [section 1].

15 (3) "Fetus" means an organism of the species Homo sapiens from 8 weeks of development until
16 complete expulsion or extraction from a woman's body or removal from an artificial womb or other similar
17 environment designed to nurture the development of the organism.

18 (4) "Oocyte" means the human female germ cell, the egg.

19 (5) "Reproductive human cloning" means human cloning intended to result in the gestation or birth
20 of a child who is genetically identical to another conceptus, embryo, fetus, or human being, living or dead.

21 (6) "Somatic cell" means a diploid cell, having a complete set of chromosomes, obtained or
22 derived from a living or deceased human body at any stage of development."
23

24 **Section 51.** Section 50-15-101, MCA, is amended to read:

25 **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4 the following
26 definitions apply:

27 (1) "Advanced practice registered nurse" means an individual who has been certified as an
28 advanced practice registered nurse as provided in 37-8-202.

1 (2) "Authorized representative" means a person:

2 (a) designated by an individual, in a notarized written document, to have access to the individual's
3 vital records;

4 (b) who has a general power of attorney for an individual; or

5 (c) appointed by a court to manage the personal or financial affairs of an individual.

6 (3) "Dead body" means a human body or parts of a human body from which it reasonably may be
7 concluded that death occurred.

8 (4) "Department" means the department of public health and human services provided for in 2-15-
9 2201.

10 (5) "Dissolution of marriage" means a marriage terminated pursuant to Title 40, chapter 4, part 1.

11 (6) "Father" has the meaning provided in [section 1].

12 (7) "Fetal death" means death of the fetus prior to the complete expulsion or extraction from its
13 mother as a product of conception, notwithstanding the duration of pregnancy. The death is indicated by the
14 fact that after expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as
15 beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are
16 distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts
17 or gasps.

18 (7)(8) "Final disposition" means the burial, interment, cremation, removal from the state, or other
19 authorized disposition of a dead body or fetus.

20 (8)(9) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons
21 contained in 40-1-402.

22 (9)(10) "Live birth" means the complete expulsion or extraction from the mother as a product of
23 conception, notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or
24 extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation of the
25 umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
26 contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

27 (40)(11) "Local registrar" means a person appointed by the department to act as its agent in
28 administering this chapter in the area set forth in the letter of appointment.

~~(12)~~ (13) "Mother" has the meaning provided in [section 1].

~~(14)~~(13) "Nonviable birth" means an unintentional, spontaneous fetal demise occurring after a heartbeat is detected but prior to the 20th week of gestation of a pregnancy that has been verified by a health care provider.

~~(14)~~(14) "Person in charge of disposition of a dead body" means a person who places or causes a dead body or the ashes after cremation to be placed in a grave, vault, urn, or other receptacle or otherwise disposes of the body or fetus and who is a funeral director, an employee acting for a funeral director, or a person who first assumes custody of a dead body or fetus.

~~(15)~~(15) "Physician" means a person legally authorized to practice medicine in this state.

~~(16)~~(16) "Registration" means the process by which vital records are completed, filed, and incorporated into the official records of the department.

~~(17)~~(17) "Research" means a systematic investigation designed primarily to develop or contribute to generalizable knowledge.

~~(18)~~(18) "Sex" has the meaning provided in ~~4-4-204~~ [section 1].

~~(19)~~(19)(a) "Stillbirth" means a fetal death occurring after a minimum of 20 weeks of gestation.

(b) The term does not include an abortion, as defined in 50-20-104.

~~(20)~~(20) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records. The term includes the collection of reports required by this chapter and related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

~~(21)~~(21) "Vital records" means certificates or reports of birth, death, fetal death, marriage, and dissolution of marriage and related reports.

~~(22)~~(22) "Vital statistics" means the data derived from certificates or reports of birth, death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related reports."

Section 52. Section 50-19-103, MCA, is amended to read:

"50-19-103. Prenatal blood sample required for serological test. (1) Every female, as defined in ~~4-4-204~~ [section 1], regardless of age or marital status, seeking prenatal care from a health care provider is required to submit a blood specimen for the purpose of a standard serological test. In submitting the specimen

to the laboratory, the health care provider shall designate it as a prenatal test.

(2) A health care provider who attends a pregnant woman shall at the first professional visit take the blood sample and submit it to a laboratory.

(3) A person permitted to attend a pregnant woman, but not permitted to take blood samples, must have the sample taken by a person permitted to take blood samples and submit it to a laboratory.

(4) A health care provider who violates this part is guilty of a misdemeanor. However, a health care provider who requests a sample of blood in accordance with this provision and whose request is refused is not guilty of a violation of this section."

Section 53. Section 50-19-501, MCA, is amended to read:

"50-19-501. Nursing mother and infant protection. (1) The Montana legislature finds that breastfeeding a baby is an important and basic act of nurturing that must be protected in the interests of maternal and child health and family values. A mother, as defined in [section 1], has a right to breastfeed the mother's child in any location, public or private, where the mother and child are otherwise authorized to be present, irrespective of whether or not the mother's breast is covered during or incidental to the breastfeeding.

(2) A unit of local government may not prohibit breastfeeding in public by local ordinance.

(3) The act of breastfeeding may not be considered:

(a) a nuisance as provided in Title 27, chapter 30;

(b) indecent exposure as provided for in 45-5-504;

(c) sexual conduct as defined in 45-5-625; or

(d) obscenity as provided for in 45-8-201."

Section 54. Section 50-60-214, MCA, is amended to read:

"50-60-214. Alteration of primary function area. (1) An alteration that affects or could affect the use of or access to a primary function area in a public building must be made to ensure, to the extent possible, that the path of travel to the altered primary function area and the restrooms, telephones, and drinking fountains serving the altered primary function area are readily accessible and usable by persons with disabilities.

(2) (a) A person or entity is not required to make alterations to provide an accessible path of travel

1 by a licensed prescriber, including medications approved by the United States food and drug administration for
2 the treatment of opioid use disorder.

3 (11) (a) "Substance use disorder" means the use of any chemical substance, legal or illegal, that
4 creates behavioral or health problems, or both, resulting in operational impairment.

5 (b) This term includes alcoholism, drug dependency, or both, that endanger the health,
6 interpersonal relationships, or economic functions of an individual or the public health, safety, or welfare."

7
8 **Section 59.** Section 53-30-312, MCA, is amended to read:

9 **"53-30-312. Creation of community corrections boards -- membership -- appointment -- terms --**
10 **compensation.** (1) A unit of local government, the governing bodies of two or more units of local government,
11 or a tribal government may establish a community corrections board.

12 (2) A community corrections board consists of three to seven members, must, when possible, be
13 gender-balanced, as provided in [section 1], and have racial parity, and must include:

14 (a) one local law enforcement officer;

15 (b) one probation and parole officer; and

16 (c) one member of the public.

17 (3) Members of a community corrections board must be appointed by the chief executive officer of
18 the unit of local government or the tribal government in the judicial district in which community corrections
19 facilities or programs are established.

20 (4) Members of a community corrections board shall serve for a term of 4 years.

21 (5) Members of a community corrections board shall serve without compensation except as
22 otherwise decided by the units of local government or a tribal government."

23
24 **Section 60.** Section 60-5-514, MCA, is amended to read:

25 **"60-5-514. Business eligibility -- criteria -- restrictions.** (1) To be eligible for placement of a
26 business sign on a specific information sign panel, a business establishment shall meet standards for "GAS",
27 "FOOD", "LODGING", and "CAMPING" services in rules adopted by the department pursuant to guidelines in
28 the Manual on Uniform Traffic Control Devices, as amended.

trust is to be administered in the manner of an express trust. The term excludes other constructive trusts and excludes resulting trusts; conservatorships; personal representatives; trust accounts as defined in 72-6-111 and Title 72, chapter 6, parts 2 and 3; custodial arrangements pursuant to chapter 26; business trusts providing for certificates to be issued to beneficiaries; common trust funds; voting trusts; security arrangements; liquidation trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another.

(56) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(57) "Verification" has the meaning provided in 25-4-203 and may be proved by an unsworn written verification in accordance with 1-6-105.

(58) "Ward" means an individual described in 72-5-101.

(59) "Will" includes codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession."

Section 64. Section 72-17-106, MCA, is amended to read:

"72-17-106. Statewide organ and tissue donation registry. (1) The department of justice shall electronically transfer to the federally designated organ procurement organization all information that appears on the front of a driver's license, including the name, gender, as provided in [section 1], date of birth, and most recent address of any person who obtains a driver's license and who volunteers to donate organs or tissue upon death, as provided in 61-5-301. The department of justice may charge actual costs for the first transfer of information, as provided in subsection (5). However, all subsequent electronic transfers of donor information must be at no charge to the federally designated organ procurement organization.

(2) Information obtained by the federally designated organ procurement organization must be used for the purpose of establishing a statewide organ and tissue donation registry accessible to in-state, recognized cadaveric organ and cadaveric tissue agencies for the recovery or placement of organs and tissue and to procurement agencies in another state when a Montana resident is a donor of an anatomical gift and is not located in the state at the time of death or immediately before the death of the donor.

(3) An organ or tissue donation organization may not obtain information from the organ and tissue donation registry for the purpose of fundraising. Organ and tissue donation registry information may not be further disseminated unless authorized in this section or by federal law. Dissemination of organ and tissue donation registry information may be made by the organ procurement organization to a recognized, in-state procurement agency for other tissue recovery or to an out-of-state, federally designated organ procurement organization.

(4) The federally designated organ procurement organization may acquire donor information from sources other than the department of justice.

(5) All reasonable costs associated with the creation and maintenance of the organ and tissue donation registry, as determined by the department of justice, must be paid by the organ and tissue procurement organizations. Any money collected by the department of justice must be deposited in an account in the state special revenue fund established by the department of justice for the purpose of the payment of reasonable costs associated with the development and maintenance of the organ and tissue donation registry and necessary for the initial installation and setup for electronic transfer of the donor information.

(6) An individual does not need to participate in the organ and tissue donation registry to be a donor of organs or tissue. The registry is intended to facilitate organ and tissue donation and not inhibit persons from being donors upon death."

Section 65. Section 90-14-104, MCA, is amended to read:

"90-14-104. Commission on community service. (1) The governor shall appoint a commission on community service composed of up to 15 members.

(2) Members must include a representative from a tribal government and from at least four state agencies in the following functional areas:

- (a) natural resources;
- (b) human services;
- (c) labor;
- (d) K-12 education;
- (e) higher education; and

(f) military affairs.

(3) Members may include representatives from local government, not-for-profit agencies, federal agencies, business, labor unions, volunteer groups, and private citizens.

(4) To the extent possible, membership of the commission must be balanced according to race, ethnicity, age, gender, as provided in [section 1], and disabilities.

(5) The commission shall assist in the development and coordination of state community service programs, integration of services, dissemination of information, recruitment of volunteers, recruitment and training of volunteer crewleaders, development of materials, and evaluation of and accountability for the services provided.

(6) Commission members are entitled to payment and reimbursement as provided in 2-15-122(5)."

NEW SECTION. Section 66. Repealer. The following section of the Montana Code Annotated is repealed:

1-1-201. Terms of wide applicability.

NEW SECTION. Section 67. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 2, and the provisions of Title 1, chapter 1, part 2, apply to [section 1].

NEW SECTION. Section 68. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 69. Effective date. [This act] is effective on passage and approval.

- END -