

## 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 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 REFER TO BIOLOGICAL SEX AND NOT SUBJECTIVE GENDER IDENTITY; AMENDING SECTIONS 2-18-208, 7-15-4207, 7-34-2123, 13-27-408, 13-35-301, 13-38-201, 20-7-1306, 20-7-1703, 20-9-327, 20-25-501, 20-25-707, 22-2-306, 33-1-201, 35-20-209, 39-2-912, 40-1-107, 40-1-401, 40-5-907, 40-5-1031, 40-6-701, 40-6-703, 41-5-103, 42-2-204, 45-5-625, 46-19-301, 46-19-401, 49-1-102, 49-2-101, 49-3-101, 50-5-105, 50-5-602, 50-11-101, 50-15-101, 50-19-103, 50-60-214, 53-20-142, 53-21-121, 53-21-142, 53-24-310, 60-5-514, 60-5-522, 61-5-107, AND 72-1-103, MCA; REPEALING SECTION 1-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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) "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.

(b) "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.

- 1 (c) "Oath" includes an affirmation or declaration.
- 2 (d) "Person" includes a corporation or other entity as well as a natural person.
- 3 (e) "Several" means two or more.
- 4 (f) "Sex" means the organization of the body parts and gametes for reproduction in human beings  
5 and other organisms. In human beings, there are exactly two sexes, male and female, with two corresponding  
6 types of gametes. The sexes are determined by the biological and genetic indication of male or female,  
7 including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and  
8 external genitalia present at birth, without regard to an individual's psychological, behavioral, social, chosen, or  
9 subjective experience of gender.
- 10 (g) "State", when applied to the different parts of the United States, includes the District of  
11 Columbia and the territories.
- 12 (h) "United States" includes the District of Columbia and the territories.
- 13 (2) Wherever the word "man" or "men" or a word that includes the syllable "man" or "men" in  
14 combination with other syllables, such as "workman", appears in this code, the word or syllable includes  
15 "woman" or "women" unless the context clearly indicates a contrary intent and unless the subject matter of the  
16 statute relates clearly and necessarily to a specific sex only.
- 17 (3) Whenever the term "heretofore" occurs in any statute, it must be construed to mean any time  
18 previous to the day the statute takes effect. Whenever the word "hereafter" occurs, it must be construed to  
19 mean the time after the statute containing the term takes effect.

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

22 **"2-18-208. Comparable worth.** The department of administration shall, in its continuous efforts to  
23 enhance the current classification plan and pay schedules, work toward the goal of establishing a standard of  
24 equal pay for comparable worth. This standard for the classification plan shall be reached by:

- 25 (1) eliminating, in the classification of positions, the use of judgments and factors that contain  
26 inherent biases based on sex, as defined in 4-1-204 [section 1]; and
- 27 (2) comparing, in the classification of positions, the factors for determining job worth across  
28 occupational groups whenever those groups are dominated by males or females."

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2           **Section 3.** Section 7-15-4207, MCA, is amended to read:

3           **"7-15-4207. Prohibition against discrimination.** For all of the purposes of this part and part 43, a  
4 person may not be subjected to discrimination because of sex, as defined in ~~4-1-204~~ [section 1], race, creed,  
5 religion, age, physical or mental disability, color, or national origin."  
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7           **Section 4.** Section 7-34-2123, MCA, is amended to read:

8           **"7-34-2123. Admission to district hospital facilities.** Such a hospital district must admit persons to  
9 its facilities without regard to race, color, or sex, as defined in ~~4-1-204~~ [section 1]. Such obligation shall not  
10 prevent the board of trustees of such hospital district from establishing reasonable minimum rates for hospital  
11 quarters, services, and supplies. Indigents needing such services, for the rendition of which provision is made  
12 by the laws of Montana, must be admitted to such public hospitals on terms and rates prescribed or authorized  
13 by law."  
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15           **Section 5.** Section 13-27-408, MCA, is amended to read:

16           **"13-27-408. Rejection of improper arguments.** The secretary of state shall reject, with the approval  
17 of the attorney general, an argument or other matter held to contain obscene, vulgar, profane, scandalous,  
18 libelous, or defamatory matter; any language that in any way incites, counsels, promotes, or advocates hatred,  
19 abuse, violence, or hostility toward, or that tends to cast ridicule or shame upon, a group of persons by reason  
20 of race, color, religion, or sex, as defined in ~~4-1-204~~ [section 1]; or any matter not allowed to be sent through  
21 the mail. Such arguments may not be filed or printed in the voter information pamphlet."  
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23           **Section 6.** Section 13-35-301, MCA, is amended to read:

24           **"13-35-301. Adoption of code of fair campaign practices.** The following code of fair campaign  
25 practices is adopted by Montana:

26           "There are basic principles of decency, honesty, and fair play that every candidate for public office in  
27 the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but  
28 fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled

1 choice and the will of the people may be fully and clearly expressed on the issues before the country.

2 Therefore:

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

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

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

10 I will not use campaign material of any sort that misrepresents, distorts, or otherwise falsifies the facts,  
11 nor will I use malicious or unfounded accusations that aim at creating or exploiting doubts, without justification,  
12 as to the loyalty and patriotism of my opposition.

13 I will not make any appeal to prejudice based on race, sex, as defined in ~~4-1-201~~ section 1, creed, or  
14 national origin.

15 I will not undertake or condone any dishonest or unethical practice that tends to corrupt or undermine  
16 our American system of free elections or that hampers or prevents the full and free expression of the will of the  
17 voters.

18 Insofar as is possible, I will immediately and publicly repudiate support deriving from any individual or  
19 group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and  
20 tactics that I have pledged not to use or condone.""

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22 **Section 7.** Section 13-38-201, MCA, is amended to read:

23 **"13-38-201. Election or appointment of committee representatives at primary -- vacancies -- tie**  
24 **votes.** (1) Each political party shall appoint or elect at each primary election one person of each sex, as defined  
25 in ~~4-1-201~~ section 1, to serve as committee representatives for each election precinct. The committee  
26 representatives must be residents and registered voters of the precinct.

27 (2) If a political party chooses to appoint precinct committee representatives, the political party  
28 shall make the appointments as provided in the party's rules.

- 1           (3)     If a political party chooses to elect precinct committee representatives, the party may:
- 2           (a)     administer the election itself as provided in the party's rules; or
- 3           (b)     elect precinct committee representatives in a primary election, subject to 13-10-209 and
- 4 subsection (4) of this section.
- 5           (4)     In a primary election for a precinct committee representative:
- 6           (a)     if the number of candidates nominated for a party's precinct committee representatives is less
- 7 than or equal to the number of positions to be elected, the election administrator may give notice that a party's
- 8 precinct committee election will not be held in that precinct;
- 9           (b)     if a party precinct committee election is not held pursuant to subsection (4)(a), the election
- 10 administrator shall declare elected by acclamation the candidate who filed for the position or who filed a
- 11 declaration of intent to be a write-in candidate. The election administrator shall issue a certificate of election to
- 12 the designated party.
- 13           (c)     write-in votes for a precinct committee representative may be counted as specified in 13-15-
- 14 206(5) only if the individual whose name is written in has filed a declaration of intent as a write-in candidate by
- 15 the deadline prescribed in 13-10-211(1);
- 16           (d)     in the case of a tie vote for a precinct committee representative position, the county central
- 17 committee shall determine a winner.
- 18           (5)     Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled
- 19 by the party governing body as provided in its rules."

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21           **Section 8.** Section 20-7-1306, MCA, is amended to read:

22           **"20-7-1306. (Temporary) Designation of athletic teams.** (1) Interscholastic, intercollegiate,

23 intramural, or club athletic teams or sports that are sponsored by a public elementary or high school, a public

24 institution of higher education, or any school or institution whose students or teams compete against a public

25 school or institution of higher education must be expressly designated as one of the following based on

26 biological sex:

- 27           (a)     males, men, or boys;
- 28           (b)     females, women, or girls; or

1 (c) coed or mixed.

2 (2) Athletic teams or sports designated for females, women, or girls may not be open to students of  
3 the male sex.

4 (3) For the purposes of this section, "female", "male", and "sex" are defined in ~~4-4-204~~ [section 1].  
5 (Void on occurrence of contingency--sec. 6, Ch. 405, L. 2021.)"

6

7 **Section 9.** Section 20-7-1703, MCA, is amended to read:

8 **"20-7-1703. Definitions.** As used in this part, the following definitions apply:

9 (1) "Eligible postsecondary institution" means an accredited postsecondary institution located in  
10 Montana.

11 (2) "ESA student amount" means the sum of:

12 (a) the data-for-achievement payment rate under 20-9-306;

13 (b) the Indian education for all payment rate under 20-9-306;

14 (c) the per-ANB amounts of the instructional block grant and related services block grant under 20-  
15 9-321; and

16 (d) the applicable per-ANB maximum rate established in 20-9-306 for the student multiplied by the  
17 ratio of adopted general fund budget to maximum general fund budget in the prior year, rounded to the nearest  
18 one hundredth and not to exceed 1.00, in the district in which the student is included for ANB purposes under  
19 the program.

20 (3) "Montana special needs equal opportunity education savings account" or "account" means an  
21 account within the trust established in 20-7-1710 in which a payment under 20-7-1709 is deposited on behalf of  
22 a qualified student for the purpose of reimbursement for the purchase of allowable educational resources  
23 pursuant to 20-7-1704 for qualified students.

24 (4) "Parent" means a biological parent, adoptive parent, legal guardian, custodian, or other person  
25 with legal authority to act on behalf of a qualified student, and whose parental rights have not been terminated.

26 (5) "Program" means the Montana special needs equal opportunity education savings account  
27 program established in 20-7-1702.

28 (6) "Qualified school" means a nonpublic school serving any combination of grades kindergarten

1 through 12 that:

2 (a) is in compliance with applicable local health and safety regulations;

3 (b) holds a valid occupancy permit, if required by the municipality;

4 (c) does not discriminate on the basis of race, creed, religion, sex, as defined in [section 1], marital  
5 status, color, age, physical disability, or national origin or because of mental disability, unless based on  
6 reasonable grounds, pursuant to 49-2-307;

7 (d) requires that any employee who may have unsupervised access to children be subject to a  
8 criminal history background check prior to employment pursuant to and in support of 42 U.S.C. 5119(a) and (c);  
9 and

10 (e) meets the requirements for Montana nonpublic schools under 20-5-109.

11 (7) "Qualified student" means a resident of the state who:

12 (a) in the current school year:

13 (i) is identified as a "child with a disability" under the Individuals With Disabilities Education Act, 20  
14 U.S.C. 1400, et seq.; and

15 (ii) is between the ages of 5 and 19 on September 10;

16 (b) is not currently enrolled in a school operating for the purpose of providing educational services  
17 to youth in department of corrections commitment programs or in the Montana school for the deaf and blind;  
18 and

19 (c) (i) was counted during the previous school year for purposes of school district ANB funding;

20 (ii) was enrolled during the previous school year in a program listed in subsection (7)(b);

21 (iii) did not reside in the state in the previous school year; or

22 (iv) is eligible to enter a kindergarten program pursuant to 20-7-117.

23 (8) "Resident school district" means the school district in which a student resides."  
24

25 **Section 10.** Section 20-9-327, MCA, is amended to read:

26 **"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

27 (i) public school districts, as defined in 20-6-101 and 20-6-701;

28 (ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills correctional facility and the facility under contract with the department of corrections for female, as defined in ~~4-1-204~~ section 1, youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-24-301, 37-25-302, 37-39-308, 37-39-309, or 37-39-311; and

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

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

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

**Section 11.** Section 20-25-501, MCA, is amended to read:



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

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

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

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

6           (d)       "Resident student" means:

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

11          (ii)      any graduate of a Montana high school who is a citizen or resident alien of the United States  
12      and whose parents, parent, or guardian has resided in Montana at least 1 full year of the 2 years immediately  
13      preceding the student's graduation from high school. The classification continues for not more than 4 academic  
14      years if the student remains in continuous attendance at a unit; or

15          (iii)     a member of the armed forces of the United States assigned to and residing in Montana, the  
16      member's spouse, or the member's dependent children.

17          (2)      In the event that the definition of residency or any portion of the definition is declared  
18      unconstitutional as it is applied to payment of nonresident fees and tuition, the regents of the Montana  
19      university system may make rules on what constitutes adequate evidence of residency status not inconsistent  
20      with those court decisions."

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22           **Section 12.** Section 20-25-707, MCA, is amended to read:

23           **"20-25-707. Antidiscrimination.** An employer is not eligible to employ any person under this program  
24      if the employer practices discrimination in employment against any individual because of race, creed, religion,  
25      color, political ideas, sex, as defined in 4-1-204 [section 1], age, marital status, physical or mental disability,  
26      ancestry, or national origin."

27  
28           **Section 13.** Section 22-2-306, MCA, is amended to read:

1           **"22-2-306. Grant conditions -- additional funds -- accounts and reports.** (1) A grant may not be  
2 awarded unless the grantee accepts the Montana arts council's conditions of the grant and signs a contract  
3 stipulating those conditions.

4           (2) A grantee must agree in writing that:

5           (a) the grantee is the official and sole agency for the administration of the project described in the  
6 grant agreement; and

7           (b) no person will, on the grounds of race, color, national origin, sex, as defined in 4-4-204 [section  
8 1], or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under  
9 any program or activity that results from the expenditure of grant funds.

10          (3) The grantee must agree that the funds granted will be expended solely for the purpose and  
11 activities described in the approved proposal. All funds granted to the grantee must be spent or encumbered  
12 during the grant period.

13          (4) Disbursements to grantees must be as follows, based upon the cash flow needs of the projects  
14 and the revenues available:

15          (a) Projects that are to receive more than \$10,000 may receive an amount not exceeding 25% of  
16 the grant award in the first 6 months of the biennium, 50% in the first year of the biennium, 75% in the first 18  
17 months of the biennium, and the balance in the remainder of the biennium. Within the limitations contained in  
18 this subsection, the amount of each payment must be determined by the Montana arts council in its discretion.  
19 Each payment may be made only after an examination of the costs incurred in the project and the amount, if  
20 any, of the unencumbered or unexpended balance of prior grant payments for the project.

21          (b) Projects that are to receive \$10,000 or less may receive the total grant in any fiscal quarter if  
22 the Montana arts council determines that the cultural and aesthetic project account has funds available and  
23 that, after an examination of the costs incurred by the project, total payment is appropriate.

24          (c) A grant award budget may be modified in accordance with this subsection. A grantee may  
25 modify line items in an approved budget in an amount not to exceed 10% of the total grant award. A grantee  
26 may, with permission of the Montana arts council, modify line items in an approved budget in an amount not to  
27 exceed 20% of the total grant award. A modification may not increase the grant award or change the scope or  
28 purpose of the award.

(5) The grantee must maintain accounts, records, and other pertinent material pertaining to the costs incurred and expenditures made under the grant. The system of accounting employed by the grantee must be in accordance with generally accepted accounting principles and be applied in a consistent manner so that project costs and expenditures can be clearly identified. Accounts, records, and other pertinent material must be maintained for 3 years from the official termination date of the grant period or until an audit, approved by the council, has been completed and any questions arising from the audit have been resolved to the satisfaction of the council.

(6) Grantees must submit to the council semiannual reports of expenditures during the course of the project and other financial and descriptive reports that the council may require. The grantee must submit, within 30 days after completion of the project, a final financial report and a narrative report stating what was accomplished with the grant. Five percent of the total grant award must be held pending receipt of final reports by the council. With regard to grantees who in the past have submitted late reports, 30% of the grant award may be held pending receipt of final reports by the council.

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

**Section 14.** Section 33-1-201, MCA, is amended to read:

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

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

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

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

(4) "Female" has the meaning provided in ~~4-1-201~~ [section 1].

(5) "Foreign insurer" is an insurer formed under the laws of any jurisdiction other than this state. Except when distinguished by context, the term includes an alien insurer.

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

3 (b) The term does not include:

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

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

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

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

11 (b) The term does not include a health care sharing ministry that meets the requirements of 50-4-  
12 111.

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

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

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

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

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

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

22 (12) "Transact", with respect to insurance, means to:

23 (a) solicit;

24 (b) negotiate;

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

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

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

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2           **Section 15.** Section 35-20-209, MCA, is amended to read:

3           **"35-20-209. Duties of secretary -- record of interments.** The secretary shall perform all the duties  
4 of a secretary of a corporation and shall, in addition, keep a record of interments in which the secretary shall  
5 enter as correctly and carefully as may be the name, age, sex, as defined in ~~4-4-204~~ [section 1], place of birth,  
6 and cause of death with date of burial of every person interred in the cemetery. The secretary shall procure  
7 these facts from friends or relatives of the deceased or the undertaker that gives the order for interment at that  
8 time or, if the deceased is a pauper, a stranger, or criminal, from the coroner, physician, or other public officer  
9 directing the burial of the deceased."

10

11           **Section 16.** Section 39-2-912, MCA, is amended to read:

12           **"39-2-912. Exemptions.** (1) This part does not apply to a discharge:

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

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

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

23

24           **Section 17.** Section 40-1-107, MCA, is amended to read:

25           **"40-1-107. Form of application, license, marriage certificate, and consent.** (1) The director of the  
26 department of public health and human services shall prescribe the form for an application for a marriage  
27 license, which must include the following information:

28           (a) name, sex, as defined in ~~4-4-204~~ [section 1], address, [social security number,] and date and

1 place of birth of each party to the proposed marriage;

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

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

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

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

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

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

14  
15 **Section 18.** Section 40-1-401, MCA, is amended to read:

16 **"40-1-401. Prohibited marriages -- contracts.** (1) The following marriages are prohibited:

17 (a) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

18 (b) a marriage between an ancestor and a descendant or between a brother and a sister, whether  
19 the relationship is by the half or the whole blood, or between first cousins;

20 (c) a marriage between an uncle and a niece or between an aunt and a nephew, whether the  
21 relationship is by the half or the whole blood;

22 (d) a marriage between persons of the same sex, as defined in 4-4-204. [section 1].

23 (2) Parties to a marriage prohibited under this section who cohabit after removal of the impediment  
24 are lawfully married as of the date of the removal of the impediment.

25 (3) Children born of a prohibited marriage are legitimate.

26 (4) A contractual relationship entered into for the purpose of achieving a civil relationship that is  
27 prohibited under subsection (1) is void as against public policy."

1           **Section 19.** Section 40-5-907, MCA, is amended to read:

2           **"40-5-907. Case registry -- abstracts -- information required -- mandatory updating.** (1) There  
3 must be registered in the case registry an abstract of:

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

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

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

9           (2) Each abstract must include:

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

13          (b) the child's name, date of birth, sex, as defined in 4-4-204 [section 1], [social security number, if  
14 any,] and residential address if different from that of the child's custodian;

15          (c) the name and location of the obligee if the obligee is a person or agency other than the child's  
16 parent;

17          (d) the name, address, and telephone number of the obligor's employer or of another payor of  
18 income to the obligor; and

19          (e) (i) if the child is covered by a health or medical insurance plan and the information is available  
20 in an electronic format, the name of the insurance carrier or health benefit plan, the policy identification number,  
21 the name of the persons covered, and any other pertinent information regarding coverage; or

22          (ii) if the child is not covered, information as to the availability of coverage for the child through the  
23 obligor's and obligee's employers.

24          (3) The abstract of a support order must include:

25          (a) the amount of the support payment and supplemental support payments, if any, for each child  
26 and the amount of spousal maintenance if ordered in the same case;

27          (b) the specific day or dates the payment is due;

28          (c) the inclusive dates of the support obligation;

1 (d) the terms of any condition that may affect the amount of the payment, the due date, or the  
2 obligation to pay support;

3 (e) each subsequent judgment for support arrears and the amounts of any interest, late payment  
4 penalties, and fees included in the judgment;

5 (f) any specific child support lien imposed against real or personal property of the obligor;

6 (g) the terms of any medical and health coverage provision for the child; and

7 (h) the name and county of the judicial district or the name and address of the agency where the  
8 record of the case is located and the cause number or case identification number for the case.

9 (4) (a) For each IV-D case with a support order registered in the case registry, there must be a  
10 record of the date and the amount of support payments made by the obligor, dates and amounts of support  
11 collected from other sources, dates of distribution of support payments, names and locations of persons or  
12 agencies to whom support payments and collections were distributed, and the balance of support owed by the  
13 obligor.

14 (b) Except as provided in subsection (5), the department need not maintain payment records in a  
15 non IV-D case.

16 (5) A copy of each non IV-D income-withholding order must be included in the case registry. For  
17 each registered income-withholding order, there must be a record of payments received by the department from  
18 the payor under the income-withholding order, the date and amount of each payment, the date the department  
19 distributed the payment, and the person or agency to whom the payment was distributed.

20 (6) The statistical report required by the department under 50-15-302 may be combined with and  
21 made a part of the abstract of support order form.

22 (7) (a) Each support order entered or modified in this state after October 1, 1998, must include a  
23 requirement that the obligor and obligee update, as necessary, the information included in the abstract under  
24 subsection (2).

25 (b) The order must also provide that in a subsequent child support enforcement action, upon  
26 sufficient showing that diligent effort has been made to ascertain the location of the obligor or obligee, the court  
27 or agency taking the enforcement action may consider the due process requirements for notice and service of  
28 process to be met with respect to the party upon delivery of written notice by regular mail to the most recent



1 address or employer address reported to the case registry.

2 (c) If the support order does not include the provisions required by subsections (7)(a) and (7)(b) or  
3 if the support order was entered or last modified in this state before October 1, 1998, the department may give  
4 written notice of the provisions to the obligor and obligee. Upon receipt of the notice, the provisions have the  
5 same force and effect on the obligor and obligee as if included in the support order. (Bracketed language  
6 terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

7

8 **Section 20.** Section 40-5-1031, MCA, is amended to read:

9 **"40-5-1031. Pleadings and accompanying documents.** (1) In a proceeding under this part, a  
10 petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a  
11 support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered  
12 under 40-5-1032, the petition or accompanying documents must provide, so far as known, the name, residential  
13 address, and social security numbers of the obligor and the obligee or the parent and alleged parent and the  
14 name, sex, as defined in 4-1-204 [section 1], residential address, social security number, and date of birth of  
15 each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time  
16 of registration, the petition must be accompanied by a copy of any support order known to have been issued by  
17 another tribunal. The petition may include any other information that may assist in locating or identifying the  
18 respondent.

19 (2) The petition must specify the relief sought. The petition and accompanying documents must  
20 conform substantially with the requirements imposed by the forms mandated by federal law for use in cases  
21 filed by a support enforcement agency."

22

23 **Section 21.** Section 40-6-701, MCA, is amended to read:

24 **"40-6-701. Interference with fundamental parental rights restricted -- cause of action.** (1) A  
25 government entity may not interfere with the fundamental right of parents to direct the upbringing, education,  
26 health care, and mental health of their children unless the government entity demonstrates that the  
27 interference:

28 (a) furthers a compelling governmental interest; and

1 (b) is narrowly tailored and is the least restrictive means available for the furthering of the  
2 compelling governmental interest.

3 (2) All fundamental parental rights are exclusively reserved to the parent of a child without  
4 obstruction or interference by a government entity, including but not limited to the rights and responsibilities to  
5 do the following:

6 (a) direct the education of the child, including the right to choose public, private, religious, or home  
7 schools and the right to make reasonable choices with public schools for the education of the child;

8 (b) access and review all written and electronic education records relating to the child that are  
9 controlled by or in the possession of a school;

10 (c) direct the upbringing of the child;

11 (d) direct the moral or religious training of the child;

12 (e) make and consent to all physical and mental health care decisions for the child;

13 (f) access and review all health and medical records of the child;

14 (g) consent before a biometric scan of the child is made, shared, or stored;

15 (h) consent before a record of the child's blood or DNA is created, stored, or shared, unless  
16 authorized pursuant to a court order;

17 (i) consent before a government entity makes an audio or video recording of the child, unless the  
18 audio or video recording is made during or as part of:

19 (i) a court proceeding;

20 (ii) a law enforcement investigation;

21 (iii) a forensic interview in a criminal or child abuse and neglect investigation;

22 (iv) the security or surveillance of buildings grounds, or transportation of students; or

23 (v) a photo identification card;

24 (j) be notified promptly if an employee of a government entity suspects that abuse, neglect, or a  
25 criminal offense has been committed against the child unless the parent is suspected to have caused the  
26 abuse;

27 (k) opt the child out of any personal analysis, evaluation, survey, or data collection by a school  
28 district that would capture data for inclusion in the statewide data system except data that is necessary and

1 essential for establishing a student's education record;

2 (l) have the child excused from school attendance for religious purposes;

3 (m) participate in parent-teacher associations and school organizations that are sanctioned by the  
4 board of trustees of a school district; and

5 (n) be notified promptly if, and provide consent before, the child would share a room or sleeping  
6 quarters with an individual of the opposite sex on a school-sponsored trip. A child whose parent does not  
7 provide consent must be permitted to attend the trip and must be provided with reasonable accommodations  
8 that do not require the child to share a room or sleeping quarters with an individual of the opposite sex. The  
9 definition of sex as provided in [section 1] must be used to determine the meaning of opposite sex under this  
10 subsection (2)(n).

11 (3) Except for law enforcement, an employee of a government entity may not encourage or coerce  
12 a child to withhold information from the child's parent and may not withhold from a child's parent information  
13 that is relevant to the physical, emotional, or mental health of a child.

14 (4) This section may not be construed as invalidating the provisions of Title 41, chapter 3, or  
15 modifying the burden of proof at any stage of the proceedings under Title 41, chapter 3.

16 (5) When a parent's fundamental rights protected by 40-6-702, 40-6-707, 41-1-402, 41-1-403, 41-  
17 1-405, and this section are violated, a parent may assert that violation as a claim or defense in an  
18 administrative or judicial proceeding and may obtain appropriate relief without regard to whether the proceeding  
19 is brought by or in the name of a government entity, a private person, or any other party. The prevailing party in  
20 an action filed pursuant to 40-6-702, 40-6-707, 41-1-402, 41-1-403, 41-1-405, and this section is entitled to  
21 reasonable attorney fees and costs.

22 (6) As used in this section, the following definitions apply:

23 (a) "Child" means an individual under 18 years of age.

24 (b) "Education record" means attendance records, test scores of school-administered tests and  
25 statewide assessments, grades, school-sponsored or extracurricular activity or club participation, email  
26 accounts, online or virtual accounts or data, disciplinary records, counseling records, psychological records,  
27 applications for admission, health and immunization information including any medical records maintained by a  
28 health clinic or medical facility operated or controlled by the school district or located on the district property,

1 teacher and counselor evaluations, and reports of behavioral patterns.

2 (c) "Government entity" means the state, its political subdivisions, or any department, agency,  
3 commission, board, authority, institution, or office of the state, including a municipality, county, consolidated  
4 municipal-county government, school district, or other special district.

5 (d) "Parent" means a biological parent of a child, an adoptive parent of a child, or an individual who  
6 has been granted the exclusive right and authority over the welfare of a child under state law.

7 (e) "Substantial burden" means an action that directly or indirectly constrains, inhibits, curtails, or  
8 denies the right of a parent to direct the upbringing, education, health care, and mental health of the parent's  
9 child. The term includes but is not limited to:

10 (i) withholding benefits;

11 (ii) assessing criminal, civil, or administrative penalties; or

12 (iii) exclusion from a government program."

13

14 **Section 22.** Section 40-6-703, MCA, is amended to read:

15 **"40-6-703. Parental involvement in education.** (1) The board of trustees of a school district, in  
16 consultation with parents, teachers, and administrators, shall develop and adopt a policy to promote the  
17 involvement of parents of children enrolled in the school district, including:

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

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

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

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

26 (e) procedures by which a parent may learn about the nature and purpose of clubs and  
27 extracurricular activities that have been approved by the school or that the school is required to allow under the  
28 provisions of the federal Equal Access Act of 1984 and may withdraw the parent's child from any club or

1 extracurricular activity. A student shall provide a signed parental permission form prior to participating in any  
2 school-sponsored club or extracurricular activity.

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

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

9 (2) The board of trustees of a school district may adopt a policy providing that parents may submit  
10 and receive the information required by this section in electronic form."  
11

12 **Section 23.** Section 41-5-103, MCA, is amended to read:

13 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires  
14 otherwise, the following definitions apply:

15 (1) "Adult" means an individual who is 18 years of age or older.

16 (2) "Agency" means any entity of state or local government authorized by law to be responsible for  
17 the care or rehabilitation of youth.

18 (3) "Assessment officer" means a person who is authorized by the court to provide initial intake  
19 and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

20 (4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

21 (5) "Conditional release" means the release of a youth from a correctional facility subject to the  
22 terms and conditions of the conditional release agreement provided for in 52-5-126.

23 (6) (a) "Correctional facility" means a public secure residential facility or a private secure  
24 residential facility under contract with the department and operated to provide for the custody, treatment,  
25 training, and rehabilitation of:

26 (i) formally adjudicated delinquent youth;

27 (ii) convicted adult offenders or criminally convicted youth; or

28 (iii) a combination of the populations described in subsections (6)(a)(i) and (6)(a)(ii) under

1 conditions set by the department in rule.

2 (b) The term does not include a state prison as defined in 53-30-101.

3 (7) "Cost containment pool" means an account from which funds are allocated by the office of  
4 court administrator under 41-5-132 to a judicial district that exceeds its annual allocation for juvenile out-of-  
5 home placements, programs, and services or to the department for costs incurred under 41-5-1504.

6 (8) "Cost containment review panel" means the panel established in 41-5-131.

7 (9) "Court", when used without further qualification, means the youth court of the district court.

8 (10) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant  
9 to 41-5-206.

10 (11) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the  
11 youth has been given.

12 (b) The term does not include a person who has only physical custody.

13 (12) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the  
14 Montana Youth Court Act as a youth:

15 (a) who has committed an offense that, if committed by an adult, would constitute a criminal  
16 offense;

17 (b) who has been placed on probation as a delinquent youth and who has violated any condition of  
18 probation; or

19 (c) who has violated the terms and conditions of the youth's conditional release agreement.

20 (13) "Department" means the department of corrections provided for in 2-15-2301.

21 (14) (a) "Department records" means information or data, either in written or electronic form,  
22 maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b).

23 (b) The term does not include information provided by the department to the department of public  
24 health and human services' management information system or information maintained by the youth court  
25 through the office of court administrator.

26 (15) "Detention" means the holding or temporary placement of a youth in the youth's home under  
27 home arrest or in a facility other than the youth's own home for:

28 (a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken

1 into custody and before final disposition of the youth's case;

2 (b) contempt of court or violation of a valid court order; or

3 (c) violation of the terms and conditions of the youth's conditional release agreement.

4 (16) "Detention facility" means a physically restricting facility designed to prevent a youth from  
5 departing at will. The term includes a youth detention facility, short-term detention center, and regional  
6 detention facility.

7 (17) "Emergency placement" means placement of a youth in a youth care facility for less than 45  
8 days to protect the youth when there is no alternative placement available.

9 (18) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom  
10 a youth ordinarily lives.

11 (19) "Final disposition" means the implementation of a court order for the disposition or placement  
12 of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-  
13 5-1524.

14 (20) (a) "Formal youth court records" means information or data, either in written or electronic form,  
15 on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes  
16 petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional  
17 studies.

18 (b) The term does not include information provided by the youth court to the department of public  
19 health and human services' management information system.

20 (21) "Foster home" means a private residence licensed by the department of public health and  
21 human services for placement of a youth.

22 (22) "Guardian" means an adult:

23 (a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the  
24 youth; and

25 (b) whose status is created and defined by law.

26 (23) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts  
27 of a day, whichever is less, in 1 school year.

28 (24) (a) "Holdover" means a room, office, building, or other place approved by the board of crime

1 control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not  
2 to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate  
3 detention or shelter care facility.

4 (b) The term does not include a jail.

5 (25) (a) "Informal youth court records" means information or data, either in written or electronic form,  
6 maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and  
7 includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and  
8 supervision records of probationers.

9 (b) The term does not include information provided by the youth court to the department of public  
10 health and human services' management information system.

11 (26) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal  
12 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults  
13 after arrest.

14 (b) The term does not include a collocated juvenile detention facility that complies with 28 CFR,  
15 part 31.

16 (27) "Judge", when used without further qualification, means the judge of the youth court.

17 (28) "Juvenile home arrest officer" means a court-appointed officer administering or supervising  
18 juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

19 (29) "Law enforcement records" means information or data, either in written or electronic form,  
20 maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

21 (30) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction  
22 that gives a person the right and duty to:

23 (i) have physical custody of the youth;

24 (ii) determine with whom the youth shall live and for what period;

25 (iii) protect, train, and discipline the youth; and

26 (iv) provide the youth with food, shelter, education, and ordinary medical care.

27 (b) An individual granted legal custody of a youth shall personally exercise the individual's rights  
28 and duties as guardian unless otherwise authorized by the court entering the order.



1           (31)    "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or  
2 spouse.

3           (32)    (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other  
4 than a custodial parent's home, for purposes other than preadjudicatory detention.

5           (b)    The term does not include shelter care or emergency placement of less than 45 days.

6           (33)    (a) "Parent" means the natural or adoptive parent.

7           (b)    The term does not include:

8           (i)    a person whose parental rights have been judicially terminated; or

9           (ii)   the putative father of an illegitimate youth unless the putative father's paternity is established by  
10 an adjudication or by other clear and convincing proof.

11          (34)    "Probable cause hearing" means the hearing provided for in 41-5-332.

12          (35)    "Regional detention facility" means a youth detention facility established and maintained by two  
13 or more counties, as authorized in 41-5-1804.

14          (36)    "Restitution" means payments in cash to the victim or with services to the victim or the general  
15 community when these payments are made pursuant to a consent adjustment, consent decree, or other youth  
16 court order.

17          (37)    "Running away from home" means that a youth has been reported to have run away from  
18 home without the consent of a parent or guardian or a custodian having legal custody of the youth.

19          (38)    "Secure detention facility" means a public or private facility that:

20          (a)    is used for the temporary placement of youth or individuals accused or convicted of criminal  
21 offenses or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional  
22 release agreement, or violation of a valid court order; and

23          (b)    is designed to physically restrict the movements and activities of youth or other individuals held  
24 in lawful custody of the facility.

25          (39)    "Serious juvenile offender" means a youth who has committed an offense that would be  
26 considered a felony offense if committed by an adult and that is an offense against a person, an offense against  
27 property, or an offense involving dangerous drugs.

28          (40)    "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(41) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(42) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

(44) "Victim" means:

(a) a natural person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

(45) "Youth" means an individual who is less than 18 years of age without regard to sex, as defined in ~~4-1-204~~ section 1, or emancipation.

(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

(47) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

(48) "Youth care facility" has the meaning provided in 52-2-602.

(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth alleged to have violated the terms and conditions of the youth's conditional release agreement and includes the youth court judge, juvenile probation officers, and assessment officers.

(50) "Youth detention facility" means a secure detention facility licensed by the department for the

1 temporary substitute care of youth that is:

2 (a) (i) operated, administered, and staffed separately and independently of a jail; or

3 (ii) a collocated secure detention facility that complies with 28 CFR, part 31; and

4 (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a  
5 sanction for contempt of court, violation of the terms and conditions of the youth's conditional release  
6 agreement, or violation of a valid court order.

7 (51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

8 (a) commits an offense prohibited by law that if committed by an adult would not constitute a  
9 criminal offense, including but not limited to a youth who:

10 (i) violates any Montana municipal or state law regarding alcoholic beverages; or

11 (ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond  
12 the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the  
13 youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate,  
14 resolve, or control the youth's behavior; or

15 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,  
16 chooses to regard as a youth in need of intervention."  
17

18 **Section 24.** Section 42-2-204, MCA, is amended to read:

19 **"42-2-204. Presumed knowledge of pregnancy -- duty to register to be afforded notice --**

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

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

25 (3) An individual who is not married to the mother but who is presumed to be a father under 40-6-  
26 105 and registers in accordance with this part is entitled to receive notice of a termination of parental rights  
27 proceeding."  
28

1           **Section 25.** Section 45-5-625, MCA, is amended to read:

2           **"45-5-625. Sexual abuse of children.** (1) A person commits the offense of sexual abuse of children if  
3 the person:

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

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

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

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

16           (e) knowingly possesses any visual or print medium, including a medium by use of electronic  
17 communication in which a child is engaged in sexual conduct, actual or simulated;

18           (f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing  
19 that the activity is of the nature described in those subsections;

20           (g) possesses with intent to sell any visual or print medium, including a medium by use of  
21 electronic communication in which a child is engaged in sexual conduct, actual or simulated;

22           (h) knowingly travels within, from, or to this state with the intention of meeting a child under 16  
23 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual  
24 conduct, actual or simulated; or

25           (i) knowingly coerces, entices, persuades, arranges for, or facilitates a child under 16 years of age  
26 or a person the offender believes to be a child under 16 years of age to travel within, from, or to this state with  
27 the intention of engaging in sexual conduct, actual or simulated.

28           (2) (a) Except as provided in subsection (2)(b), (2)(c), or (4), a person convicted of the offense of

1 sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a  
2 term not to exceed 100 years and may be fined not more than \$10,000.

3 (b) Except as provided in 46-18-219, if the victim is under 16 years of age, a person convicted of  
4 the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state  
5 prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$10,000.

6 (c) Except as provided in 46-18-219, a person convicted of the offense of sexual abuse of children  
7 for the possession of material, as provided in subsection (1)(e), shall be fined not to exceed \$10,000 or be  
8 imprisoned in the state prison for a term not to exceed 10 years, or both.

9 (3) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print  
10 medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed  
11 with intent to sell, or if the activity is financed, as part of a sexual offender information or treatment course or  
12 program conducted or approved by the department of corrections.

13 (4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older  
14 at the time of the offense, the offender:

15 (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not  
16 suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this  
17 subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of  
18 imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

19 (ii) may be fined an amount not to exceed \$50,000; and

20 (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive  
21 and behavioral phase of a sexual offender treatment program provided or approved by the department of  
22 corrections.

23 (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is  
24 subject to supervision by the department of corrections for the remainder of the offender's life and shall  
25 participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

26 (5) As used in this section, the following definitions apply:

27 (a) "Electronic communication" means a sign, signal, writing, image, sound, data, or intelligence of  
28 any nature transmitted or created in whole or in part by a wire, radio, electromagnetic, photoelectronic, or

1 photo-optical system.

2 (b) "Sexual conduct" means:

3 (i) actual or simulated:

4 (A) sexual intercourse, whether between persons of the same or opposite sex, as defined in 4-4-  
5 ~~204~~ [section 1];

6 (B) penetration of the vagina or rectum by any object, except when done as part of a recognized  
7 medical procedure;

8 (C) bestiality;

9 (D) masturbation;

10 (E) sadomasochistic abuse;

11 (F) lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any  
12 person; or

13 (G) defecation or urination for the purpose of the sexual stimulation of the viewer; or

14 (ii) depiction of a child in the nude or in a state of partial undress with the purpose to abuse,  
15 humiliate, harass, or degrade the child or to arouse or gratify the person's own sexual response or desire or the  
16 sexual response or desire of any person.

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

19 (d) "Visual medium" means:

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

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

25

26 **Section 26.** Section 46-19-301, MCA, is amended to read:

27 **"46-19-301. Western Interstate Corrections Compact -- contents.** The Western Interstate

28 Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state

1 with any and all other states legally joining therein in a form substantially as follows:

2 WESTERN INTERSTATE CORRECTIONS COMPACT

3 ARTICLE I

4 PURPOSE AND POLICY

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

11 ARTICLE II

12 DEFINITIONS

13 As used in this compact, unless the context clearly requires otherwise:

- 14 (1) "state" means a state of the United States or, subject to the limitation contained in Article VII,  
15 Guam;
- 16 (2) "sending state" means a state party to this compact in which conviction was had;
- 17 (3) "receiving state" means a state party to this compact to which an inmate is sent for confinement  
18 other than a state in which conviction was had;
- 19 (4) "inmate" means a male or female, as defined in 4-1-204 [section 1], offender who is under  
20 sentence to or confined in a prison or other correctional institution;
- 21 (5) "institution" means any prison, reformatory, or other correctional facility (including but not  
22 limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.

23 ARTICLE III

24 CONTRACTS

- 25 (1) Each party state may make one or more contracts with any one or more of the other party  
26 states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states.  
27 Any such contract shall provide for:
- 28 (a) its duration;

(b) payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance;

(c) participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

(d) delivery and retaking of inmates;

(e) such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of the sending and receiving states.

(2) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percent of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state a reasonable sum as consideration for such enlargement of capacity or provision of equipment or structures and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(3) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

#### ARTICLE IV

#### PROCEDURES AND RIGHTS

(1) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in or transfer of an inmate to an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(2) The appropriate officials of any state party to this compact shall have access at all reasonable



1 times to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the  
2 facilities thereof and visiting such of its inmates as may be confined in the institution.

3 (3) Inmates confined in an institution pursuant to the terms of this compact shall at all times be  
4 subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a  
5 prison or other institution within the sending state, for transfer to another institution in which the sending state  
6 may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for  
7 any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to  
8 be obligated to such payments as may be required pursuant to the terms of any contract entered into under the  
9 terms of Article III.

10 (4) Each receiving state shall provide regular reports to each sending state on the inmates of that  
11 sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said  
12 record to the official designated by the sending state in order that each inmate may have the benefit of the  
13 inmate's record in determining and altering the disposition of said inmate in accordance with the law which may  
14 obtain in the sending state and in order that the same may be a source of information for the sending state.

15 (5) All inmates who may be confined in an institution pursuant to the provisions of this compact  
16 shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such  
17 similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a  
18 receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if  
19 confined in an appropriate institution of the sending state.

20 (6) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled  
21 by the laws of the sending state may be had before the appropriate authorities of the sending state or of the  
22 receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such  
23 hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or  
24 hearings are had before officials of the receiving state, the governing law shall be that of the sending state and  
25 a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with  
26 any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before  
27 whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings  
28 had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of

1 the sending state and no final determination shall be made in any matter except by the appropriate officials of  
2 the sending state. Costs of records made pursuant to this subsection shall be borne by the sending state.

3 (7) Any inmate confined pursuant to this compact shall be released within the territory of the  
4 sending state unless the inmate and the sending and receiving states shall agree upon release in some other  
5 place. The sending state shall bear the cost of such return to its territory.

6 (8) Any inmate confined pursuant to the terms of this compact shall have any and all rights to  
7 participate in and derive any benefits, incur or be relieved of any obligations, or have such obligations modified  
8 or the inmate's status changed on account of any action or proceeding in which the inmate could have  
9 participated if confined in any appropriate institution of the sending state located within such state.

10 (9) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending  
11 state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in  
12 the person's exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

#### 13 ARTICLE V

#### 14 ACTS NOT REVIEWABLE IN RECEIVING STATE -- EXTRADITION

15 (1) Any decision of the sending state in respect of any matter over which it retains jurisdiction  
16 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the  
17 time the sending state seeks to remove an inmate from an institution in the receiving state there is pending  
18 against the inmate within such state any criminal charge or if the inmate is suspected of having committed  
19 within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state  
20 until discharged from prosecution or other form of proceeding, imprisonment, or detention for such offense. The  
21 duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact  
22 through any and all states party to this compact without interference.

23 (2) An inmate who escapes from an institution in which the inmate is confined pursuant to this  
24 compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated.  
25 In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for  
26 institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be  
27 construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the  
28 apprehension and return of an escapee.

## ARTICLE VI

## FEDERAL AID

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto, and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

## ARTICLE VII

## ENTRY INTO FORCE

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon, and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon, and Washington.

## ARTICLE VIII

## WITHDRAWAL AND TERMINATION

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until 2 years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates

1 as it may have confined pursuant to the provisions of this compact.

2 ARTICLE IX

3 OTHER ARRANGEMENTS UNAFFECTED

4 Nothing contained in this compact shall be construed to abrogate or impair any agreement or other  
5 arrangement which a party state may have with a nonparty state for the confinement, rehabilitation, or  
6 treatment of inmates or to repeal any other laws of a party state authorizing the making of cooperative  
7 institutional arrangements.

8 ARTICLE X

9 CONSTRUCTION AND SEVERABILITY

10 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,  
11 clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating  
12 state or of the United States or the applicability thereof to any government, agency, person, or circumstance is  
13 held invalid, the validity of the remainder of this compact and the applicability thereof to any government,  
14 agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the  
15 constitution of any state participating therein, the compact shall remain in full force and effect as to the  
16 remaining states and in full force and effect as to the state affected as to all severable matters."

17

18 **Section 27.** Section 46-19-401, MCA, is amended to read:

19 **"46-19-401. Compact adopted -- text.** The Interstate Corrections Compact is entered into by this  
20 state with any and all other states legally joining therein in the form substantially as follows:

21 INTERSTATE CORRECTIONS COMPACT

22 ARTICLE I

23 PURPOSE AND POLICY

24 The party states, desiring by common action to fully utilize and improve their institutional facilities and  
25 provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders,  
26 declare that it is the policy of each of the party states to provide such facilities and programs on a basis of  
27 cooperation with one another, thereby serving the best interests of such offenders and of society and effecting  
28 economies in capital expenditures and operational costs. The purpose of this compact is to provide for the

1 mutual development and execution of such programs of cooperation for the confinement, treatment and  
2 rehabilitation of offenders with the most economical use of human and material resources.

## 3 ARTICLE II

### 4 DEFINITIONS

5 As used in this compact, unless the context requires otherwise:

6 (a) "State" means a state of the United States; the United States of America; a territory or  
7 possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

8 (b) "Sending state" means a state party to this compact in which conviction or court commitment  
9 was had.

10 (c) "Receiving state" means a state party to this compact to which an inmate is sent for  
11 confinement other than a state in which conviction or court commitment was had.

12 (d) "Inmate" means a male or female, as defined in ~~4-4-201~~ section 1, offender who is committed  
13 under sentence to or confined in a penal or correctional institution.

14 (e) "Institution" means any penal or correctional facility, including but not limited to a facility for the  
15 mentally ill or mentally defective, in which inmates may lawfully be confined.

## 16 ARTICLE III

### 17 CONTRACTS

18 (a) Each party state may make one or more contracts with any one or more of the other party  
19 states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states.  
20 Any such contract shall provide for:

21 1. Its duration.

22 2. Payments to be made to the receiving state by the sending state for inmate maintenance,  
23 extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or  
24 correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

25 3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments  
26 received by inmates on account thereof; and the crediting of proceeds from or disposal of any products  
27 resulting therefrom.

28 4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

## ARTICLE IV

## PROCEDURES AND RIGHTS

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state. For transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of the inmate's record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact

1 shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of  
2 the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall  
3 not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an  
4 appropriate institution of the sending state.

5 (f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled  
6 by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the  
7 receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such  
8 hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or  
9 hearings are had before officials of the receiving state, the governing law shall be that of the sending state and  
10 a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with  
11 any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before  
12 whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings  
13 had pursuant to the provisions of this subsection, the officials of the receiving state shall act solely as agents of  
14 the sending state and no final determination shall be made in any matter except by the appropriate officials of  
15 the sending state.

16 (g) Any inmate confined pursuant to this compact shall be released within the territory of the  
17 sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other  
18 place. The sending state shall bear the cost of such return to its territory.

19 (h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to  
20 participate in and derive any benefits or incur or be relieved of any obligations or have such obligations  
21 modified or the inmate's status changed on account of any action or proceeding in which the inmate could have  
22 participated if confined in any appropriate institution of the sending state located within such state.

23 (i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending  
24 state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in  
25 the inmate's exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

## 26 ARTICLE V

### 27 ACTS NOT REVIEWABLE IN RECEIVING STATE -- EXTRADITION

28 (a) Any decision of the sending state in respect of any matter over which it retains jurisdiction

1 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the  
2 time the sending state seeks to remove an inmate from an institution in the receiving state there is pending  
3 against the inmate within such state any criminal charge or if the inmate is formally accused of having  
4 committed within such state a criminal offense, the inmate shall not be returned without the consent of the  
5 receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for  
6 such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant  
7 to this compact through any and all states party to this compact without interference.

8 (b) An inmate who escapes from an institution in which the inmate is confined pursuant to this  
9 compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated.  
10 In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for  
11 institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein  
12 shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward  
13 the apprehension and return of an escapee.

#### 14 ARTICLE VI

#### 15 FEDERAL AID

16 Any state party to this compact may accept federal aid for use in connection with any institution or  
17 program, the use of which is or may be affected by this compact or any contract pursuant hereto and any  
18 inmate in a receiving state pursuant to this compact may participate in any such federally aided program or  
19 activity for which the sending and receiving states have made contractual provision, provided that if such  
20 program or activity is not part of the customary correctional regimen, the express consent of the appropriate  
21 official of the sending state shall be required therefor.

#### 22 ARTICLE VII

#### 23 ENTRY INTO FORCE

24 This compact shall enter into force and become effective and binding upon the states so acting when it  
25 has been enacted into law by any two states. Thereafter, this compact shall enter into force and become  
26 effective and binding as to any other of said states upon similar action by such state.

#### 27 ARTICLE VIII

#### 28 WITHDRAWAL AND TERMINATION



This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

## ARTICLE IX

## OTHER ARRANGEMENTS UNAFFECTED

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

## ARTICLE X

## CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

**Section 28.** Section 49-1-102, MCA, is amended to read:

**"49-1-102. Freedom from discrimination.** (1) The right to be free from discrimination because of race, creed, religion, color, sex, as defined in 4-1-204 [section 1], physical or mental disability, age, or national origin is recognized as and declared to be a civil right. This right must include but not be limited to:

(a) the right to obtain and hold employment without discrimination; and

(b) the right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage, or amusement.

(2) This section does not prevent the nonarbitrary consideration in adoption proceedings of relevant information concerning the factors listed in subsection (1). Consideration of religious factors by a licensed child-placing agency that is affiliated with a particular religious faith is not arbitrary consideration of religion within the meaning of this section."

**Section 29.** Section 49-2-101, MCA, is amended to read:

**"49-2-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, and who has been or is likely to be specially and injuriously affected by a violation of this chapter.

(3) "Commission" means the commission for human rights provided for in 2-15-1706.

(4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(5) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment. It includes without limitation the right to incur and defer debt that is secured by residential real property.

(6) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(7) "Creditor" means a person who, regularly or as a part of the person's business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(8) "Department" means the department of labor and industry provided for in 2-15-1701.

(9) "Educational institution" means a public or private institution and includes an academy; college;

1 elementary or secondary school; extension course; kindergarten; nursery; school system; university; business,  
2 nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

3 (10) (a) "Employee" means an individual employed by an employer.

4 (b) The term does not include an individual providing services for an employer if the individual has  
5 an independent contractor exemption certificate issued under 39-71-417 and is providing services under the  
6 terms of that certificate.

7 (11) "Employer" means an employer of one or more persons or an agent of the employer but does  
8 not include a fraternal, charitable, or religious association or corporation if the association or corporation is not  
9 organized either for private profit or to provide accommodations or services that are available on a  
10 nonmembership basis.

11 (12) "Employment agency" means a person undertaking to procure employees or opportunities to  
12 work.

13 (13) "Financial institution" means a commercial bank, trust company, savings bank, finance  
14 company, savings and loan association, credit union, investment company, or insurance company.

15 (14) "Housing accommodation" means a building or portion of a building, whether constructed or to  
16 be constructed, that is or will be used as the sleeping quarters of its occupants.

17 (15) "Labor organization" means an organization or an agent of an organization organized for the  
18 purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms  
19 or conditions of employment, or of other mutual aid and protection of employees.

20 (16) "National origin" means ancestry.

21 (17) (a) "Organization" means a corporation, association, or any other legal or commercial entity  
22 that engages in advocacy of, enforcement of, or compliance with legal interests affected by this chapter.

23 (b) The term does not include a labor organization.

24 (18) "Person" means one or more individuals, labor unions, partnerships, associations,  
25 corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated  
26 employees' associations, employers, employment agencies, organizations, or labor organizations.

27 (19) (a) "Physical or mental disability" means:

28 (i) a physical or mental impairment that substantially limits one or more of a person's major life

1 activities;

2 (ii) a record of such an impairment; or

3 (iii) a condition regarded as such an impairment.

4 (b) Discrimination based on, because of, on the basis of, or on the grounds of physical or mental  
5 disability includes the failure to make reasonable accommodations that are required by an otherwise qualified  
6 person who has a physical or mental disability. An accommodation that would require an undue hardship or that  
7 would endanger the health or safety of any person is not a reasonable accommodation.

8 (20) (a) "Public accommodation" means a place that caters or offers its services, goods, or facilities  
9 to the general public subject only to the conditions and limitations established by law and applicable to all  
10 persons. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food  
11 or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern,  
12 nightclub, trailer park, resort, campground, barbering, barbering nonchemical, cosmetology, electrology,  
13 esthetics, or manicuring salon or shop, bathroom, resthouse, theater, swimming pool, skating rink, golf course,  
14 cafe, ice cream parlor, transportation company, or hospital and all other public amusement and business  
15 establishments.

16 (b) Public accommodation does not include an institution, club, or place of accommodation that  
17 proves that it is by its nature distinctly private. An institution, club, or place of accommodation may not be  
18 considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and  
19 regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or  
20 indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this  
21 subsection (20), any lodge of a recognized national fraternal organization is considered by its nature distinctly  
22 private.

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

24

25 **Section 30.** Section 49-3-101, MCA, is amended to read:

26 **"49-3-101. Definitions.** As used in this chapter, the following definitions apply:

27 (1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle  
28 responsibility, which may represent legitimate considerations as reasonable grounds for discrimination without

1 reference to age.

2 (2) "Commission" means the commission for human rights provided for in 2-15-1706.

3 (3) (a) "Physical or mental disability" means:

4 (i) a physical or mental impairment that substantially limits one or more of a person's major life  
5 activities;

6 (ii) a record of such an impairment; or

7 (iii) a condition regarded as such an impairment.

8 (b) Discrimination based upon, because of, on the basis of, on the grounds of, or with regard to  
9 physical or mental disability includes the failure to make reasonable accommodations that are required by an  
10 otherwise qualified person who has a physical or mental disability. Any accommodation that would require an  
11 undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

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

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

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

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

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

20

21 **Section 31.** Section 50-5-105, MCA, is amended to read:

22 **"50-5-105. Discrimination prohibited.** (1) All phases of the operation of a health care facility must be  
23 without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, as defined  
24 in ~~4-1-204~~ [section 1], age, marital status, physical or mental disability, or political ideas.

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

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

28 (i) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired

1 immunodeficiency syndrome (AIDS) and includes all HIV and HIV-related viruses that damage the cellular  
2 branch of the human immune or neurological system and leave the infected person immunodeficient or  
3 neurologically impaired.

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

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

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

12

13 **Section 32.** Section 50-5-602, MCA, is amended to read:

14 **"50-5-602. Definitions.** As used in this part, the following definitions apply:

15 (1) "Department" means the department of public health and human services provided for in 2-15-  
16 2201.

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

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

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

24

25 **Section 33.** Section 50-11-101, MCA, is amended to read:

26 **"50-11-101. Definitions.** As used in this part, the following definitions apply:

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

1           (2)     "Female" has the meaning provided in ~~4-1-201~~ [section 1].

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

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

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

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

10

11           **Section 34.** Section 50-15-101, MCA, is amended to read:

12           **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4 the following  
13 definitions apply:

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

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

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

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

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

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

23           (4)     "Department" means the department of public health and human services provided for in 2-15-  
24 2201.

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

26           (6)     "Fetal death" means death of the fetus prior to the complete expulsion or extraction from its  
27 mother as a product of conception, notwithstanding the duration of pregnancy. The death is indicated by the  
28 fact that after expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as

1 beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are  
2 distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts  
3 or gasps.

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

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

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

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

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

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

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

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

25 (15) "Research" means a systematic investigation designed primarily to develop or contribute to  
26 generalizable knowledge.

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

28 (17) (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.

(18) "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.

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

(20) "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 35.** 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 ~~4-201~~ [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 36.** 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 to an altered primary function area if in terms of cost and scope the alterations to the path of travel are  
2 disproportionate to the cost of the alterations to the primary function area. Alterations to a path of travel to an  
3 altered primary function area must be considered disproportionate if the cost exceeds 20% of the cost of the  
4 alterations to the primary function area. This subsection does not prohibit an expenditure to alter a path of travel  
5 that exceeds 20% of the cost of the alterations to a primary function area.

6 (b) If the cost of altering a path of travel to an altered primary function area is disproportionate as  
7 provided in subsection (2)(a), the path of travel must be made accessible to the extent possible without  
8 incurring disproportionate costs. The alterations to the path of travel must be made by providing, in the following  
9 order or priority:

10 (i) an accessible entrance and accessible exterior route to the accessible entrance from  
11 accessible parking and passenger loading zones or from a public sidewalk if the public sidewalk is immediately  
12 adjacent to the public building site;

13 (ii) an accessible path of travel to the altered primary function area;

14 (iii) accessible restrooms for each sex, as defined in 4-4-204 [section 1], or a single unisex  
15 restroom when allowed by the applicable building code; and

16 (iv) accessible elements, including but not limited to storage spaces and alarms.

17 (3) A person or entity subject to the provisions of this section is also subject to the provisions of 50-  
18 60-213(5)(a) and (5)(b)."

19  
20 **Section 37.** Section 53-20-142, MCA, is amended to read:

21 **"53-20-142. Rights while in residential facility.** Persons admitted to a residential facility for a period  
22 of habilitation have the following rights:

23 (1) Residents have a right to dignity, privacy, and humane care.

24 (2) Residents are entitled to send and receive sealed mail. Moreover, it is the duty of the facility to  
25 foster the exercise of this right by furnishing the necessary materials and assistance.

26 (3) Residents must have the same rights and access to private telephone communication as  
27 patients at any public hospital except to the extent that the individual treatment planning team or the qualified  
28 intellectual disability professional responsible for formulation of a particular resident's habilitation plan writes an

1 order imposing special restrictions and explains the reasons for the restrictions. The written order must be  
2 renewed monthly if any restrictions are to be continued.

3 (4) Residents have an unrestricted right to visitation except to the extent that the individual  
4 treatment planning team or the qualified intellectual disability professional responsible for formulation of a  
5 particular resident's habilitation plan writes an order imposing special restrictions and explains the reasons for  
6 the restrictions. The written order must be renewed monthly if restrictions are to be continued.

7 (5) Residents have a right to receive suitable educational and habilitation services regardless of  
8 chronological age, degree of intellectual disability, or accompanying disabilities.

9 (6) Each resident must have an adequate allowance of neat, clean, suitably fitting, and seasonable  
10 clothing. Except when a particular kind of clothing is required because of a particular condition, residents must  
11 have the opportunity to select from various types of neat, clean, and seasonable clothing. The clothing must be  
12 considered the resident's throughout the resident's stay in the facility. Clothing, both in amount and type, must  
13 make it possible for residents to go out of doors in inclement weather, to go for trips or visits appropriately  
14 dressed, and to make a normal appearance in the community. The facility shall make provision for the  
15 adequate and regular laundering of the residents' clothing.

16 (7) Each resident has the right to keep and use the resident's own personal possessions except  
17 insofar as the clothes or personal possessions may be determined by the individual treatment planning team or  
18 the qualified intellectual disability professional to be dangerous either to the resident or to others.

19 (8) Each resident has a right to a humane physical environment within the residential facility. The  
20 facility must be designed to make a positive contribution to the efficient attainment of the habilitation goals of  
21 the resident. To accomplish this purpose:

22 (a) regular housekeeping and maintenance procedures that will ensure that the facility is  
23 maintained in a safe, clean, and attractive condition must be developed and implemented;

24 (b) pursuant to an established routine maintenance and repair program, the physical plant must be  
25 kept in a continuous state of good repair and operation so as to ensure the health, comfort, safety, and well-  
26 being of the residents and so as not to impede in any manner the habilitation programs of the residents;

27 (c) the physical facilities must meet all fire and safety standards established by the state and  
28 locality. In addition, the facility must meet the provisions of the life safety code of the national fire protection

1 association that are applicable to it.

2 (d) there must be special facilities for nonambulatory residents to ensure their safety and comfort,  
3 including special fittings on toilets and wheelchairs. Appropriate provision must be made to permit  
4 nonambulatory residents to communicate their needs to staff.

5 (9) Residents have a right to receive prompt and adequate medical treatment for any physical or  
6 mental ailments or injuries or physical disabilities and for the prevention of any illness or disability. The medical  
7 treatment must meet standards of medical practice in the community. However, nothing in this subsection may  
8 be interpreted to impair other rights of a resident in regard to involuntary commitment for mental illness, use of  
9 psychotropic medication, use of hazardous, aversive, or experimental procedures, or the refusal of treatment.

10 (10) Corporal punishment is not permitted.

11 (11) The opportunity for religious worship must be accorded to each resident who desires worship.  
12 Provisions for religious worship must be made available to all residents on a nondiscriminatory basis. An  
13 individual may not be compelled to engage in any religious activities.

14 (12) Residents have a right to a nourishing, well-balanced diet. The diet for residents must provide  
15 at a minimum the recommended daily dietary allowance as developed by the national academy of sciences.  
16 Provisions must be made for special therapeutic diets and for substitutes at the request of the resident, the  
17 resident's parents, guardian, or next of kin, or the responsible person appointed by the court in accordance with  
18 the religious requirements of any resident's faith. Denial of a nutritionally adequate diet may not be used as  
19 punishment.

20 (13) Residents have a right to regular physical exercise several times a week. It is the duty of the  
21 facility to provide both indoor and outdoor facilities and equipment for exercise. Residents have a right to be  
22 outdoors daily in the absence of contrary medical considerations.

23 (14) Residents have a right, under appropriate supervision, to suitable opportunities for the  
24 interaction with members of the opposite sex, as defined in 4-1-204 [section 1], except when the individual  
25 treatment planning team or the qualified intellectual disability professional responsible for the formulation of a  
26 particular resident's habilitation plan writes an order to the contrary and explains the reasons for the order. The  
27 order must be renewed monthly if the restriction is to be continued."

28

1           **Section 38.** Section 53-21-121, MCA, is amended to read:

2           **"53-21-121. Petition for commitment -- contents of -- notice of.** (1) The county attorney, upon the  
3 written request of any person having direct knowledge of the facts, may file a petition with the court alleging that  
4 there is a person within the county who is suffering from a mental disorder and who requires commitment  
5 pursuant to this chapter.

6           (2) The petition must contain:

7           (a) the name and address of the person requesting the petition and the person's interest in the  
8 case;

9           (b) the name of the respondent and, if known, the address, age, sex, as defined in ~~1-1-201~~  
10 [section 1], marital status, and occupation of the respondent;

11           (c) the purported facts supporting the allegation of mental disorder, including a report by a mental  
12 health professional if any, a statement of the disposition sought pursuant to 53-21-127, and the need for  
13 commitment;

14           (d) the name and address of every person known or believed to be legally responsible for the care,  
15 support, and maintenance of the respondent for whom evaluation is sought;

16           (e) the name and address of the respondent's next of kin to the extent known to the county  
17 attorney and the person requesting the petition;

18           (f) the name and address of any person whom the county attorney believes might be willing and  
19 able to be appointed as friend of respondent;

20           (g) the name, address, and telephone number of the attorney, if any, who has most recently  
21 represented the respondent for whom evaluation is sought; if there is no attorney, there must be a statement as  
22 to whether to the best knowledge of the person requesting the petition the respondent for whom evaluation is  
23 sought is indigent and unable to afford the services of an attorney;

24           (h) a statement of the rights of the respondent, which must be in conspicuous print and identified  
25 by a suitable heading; and

26           (i) the name and address of the mental health facility to which it is proposed that the respondent  
27 may be committed, if known.

28           (3) Notice of the petition must be hand-delivered to the respondent and to the respondent's

1 counsel on or before the initial appearance of the respondent before the judge or justice of the peace. The  
2 respondent's counsel shall meet with the respondent, explain the substance of the petition, and explain the  
3 probable course of the proceedings. Notice of the petition and the order setting the date and time of the hearing  
4 and the names of the respondent's counsel, professional person, and friend of respondent must be hand-  
5 delivered, mailed, or sent by a facsimile transmission to the person or persons legally responsible for care,  
6 support, and maintenance of the respondent, the next of kin identified in the petition, any other person identified  
7 by the county attorney as a possible friend of respondent other than the one named as the friend of respondent,  
8 the director of the department or the director's designee, and the mental health facility to which the respondent  
9 may be committed, if known. The notice may provide, other than as to the respondent and the respondent's  
10 counsel, that no further notice will be given unless written request is filed with the clerk of court."  
11

12 **Section 39.** Section 53-21-142, MCA, is amended to read:

13 **"53-21-142. Rights of persons admitted to facility.** Patients admitted to a mental health facility,  
14 whether voluntarily or involuntarily, have the following rights:

15 (1) Patients have a right to privacy and dignity.

16 (2) Patients have a right to the least restrictive conditions necessary to achieve the purposes of  
17 commitment. Patients must be accorded the right to appropriate treatment and related services in a setting and  
18 under conditions that:

19 (a) are the most supportive of the patient's personal liberty; and

20 (b) restrict the patient's liberty only to the extent necessary and consistent with the patient's  
21 treatment need, applicable requirements of law, and judicial orders.

22 (3) Patients have rights to visitation and reasonable access to telephone communications,  
23 including the right to converse with others privately, except to the extent that the professional person  
24 responsible for formulation of a particular patient's treatment plan writes an order imposing special restrictions.  
25 The written order must be renewed after each periodic review of the treatment plan if any restrictions are to be  
26 continued. Patients have an unrestricted right to visitation with attorneys, with spiritual counselors, and with  
27 private physicians and other professional persons.

28 (4) Patients have an unrestricted right to send sealed mail. Patients have an unrestricted right to

1 receive sealed mail from their attorneys, private physicians and other professional persons, the mental  
2 disabilities board of visitors, courts, and government officials. Patients have a right to receive sealed mail from  
3 others except to the extent that a professional person responsible for formulation of a particular patient's  
4 treatment plan writes an order imposing special restrictions on receipt of sealed mail. The written order must be  
5 renewed after each periodic review of the treatment plan if any restrictions are to be continued.

6 (5) Patients have an unrestricted right to have access to letter-writing materials, including postage,  
7 and have a right to have staff members of the facility assist persons who are unable to write, prepare, and mail  
8 correspondence.

9 (6) Patients have a right to wear their own clothes and to keep and use their own personal  
10 possessions, including toilet articles, except to the extent that clothes or personal possessions may be  
11 determined by a professional person in charge of the patient's treatment plan to be dangerous or otherwise  
12 inappropriate to the treatment regimen. The facility has an obligation to supply an adequate allowance of  
13 clothing to any patients who do not have suitable clothing of their own. Patients must have the opportunity to  
14 select from various types of neat, clean, and seasonable clothing. The clothing must be considered the patient's  
15 throughout the patient's stay at the facility. The facility shall make provision for the laundering of patient  
16 clothing.

17 (7) Patients have the right to keep and be allowed to spend a reasonable sum of their own money.

18 (8) Patients have the right to religious worship. Provisions for worship must be made available to  
19 all patients on a nondiscriminatory basis. An individual may not be required to engage in any religious activities.

20 (9) Patients have a right to regular physical exercise several times a week. The facility shall  
21 provide facilities and equipment for physical exercise. Patients have a right to be outdoors at regular and  
22 frequent intervals in the absence of contrary medical considerations.

23 (10) Patients have the right to be provided, with adequate supervision, suitable opportunities for  
24 interaction with members of the opposite sex, as defined in ~~4-1-204~~ [section 1], except to the extent that a  
25 professional person in charge of the patient's treatment plan writes an order stating that the interaction is  
26 inappropriate to the treatment regimen.

27 (11) Patients have a right to receive prompt and adequate medical treatment for any physical  
28 ailments. In providing medical care, the mental health facility shall take advantage of whatever community-

1 based facilities are appropriate and available and shall coordinate the patient's treatment for mental illness with  
2 the patient's medical treatment.

3 (12) Patients have a right to a diet that will provide at a minimum the recommended daily dietary  
4 allowances as developed by the national academy of sciences. Provisions must be made for special  
5 therapeutic diets and for substitutes at the request of the patient or the friend of respondent in accordance with  
6 the religious requirements of any patient's faith. Denial of a nutritionally adequate diet may not be used as  
7 punishment.

8 (13) Patients have a right to a humane psychological and physical environment within the mental  
9 health facilities. These facilities must be designed to afford patients with comfort and safety, promote dignity,  
10 and ensure privacy. The facilities must be designed to make a positive contribution to the efficient attainment of  
11 the treatment goals set for the patient. In order to ensure the accomplishment of this goal:

12 (a) regular housekeeping and maintenance procedures that will ensure that the facility is  
13 maintained in a safe, clean, and attractive condition must be developed and implemented;

14 (b) there must be special provision made for geriatric and other nonambulatory patients to ensure  
15 their safety and comfort, including special fittings on toilets and wheelchairs. Appropriate provision must be  
16 made to permit nonambulatory patients to communicate their needs to the facility staff.

17 (c) pursuant to an established routine maintenance and repair program, the physical plant of each  
18 facility must be kept in a continuous state of good repair and operation in accordance with the needs of the  
19 health, comfort, safety, and well-being of the patients;

20 (d) each facility must meet all fire and safety standards established by the state and locality. In  
21 addition, any hospital must meet the provisions of the life safety code of the national fire protection association  
22 that are applicable to hospitals. A hospital must meet all standards established by the state for general  
23 hospitals to the extent that they are relevant to psychiatric facilities.

24 (14) A patient at a facility has the right:

25 (a) to be informed of the rights described in this section at the time of admission and periodically  
26 after admission in language and terms appropriate to the patient's condition and ability to understand;

27 (b) to assert grievances with respect to infringement of the rights described in this section,  
28 including the right to have a grievance considered in a fair and timely manner according to an impartial



1 grievance procedure that must be provided for by the facility; and

2 (c) to exercise the rights described in this section without reprisal and may not be denied  
3 admission to the facility as reprisal for the exercise of the rights described in this section.

4 (15) In order to assist a person admitted to a program or facility in the exercise or protection of the  
5 patient's rights, the patient's attorney, advocate, or legal representatives must be given reasonable access to:

6 (a) the patient;

7 (b) the program or facility areas where the patient has received treatment or has resided or the  
8 areas to which the patient has had access; and

9 (c) pursuant to the written authorization of the patient, records and information pertaining to the  
10 patient's diagnosis, treatment, and related services.

11 (16) A person admitted to a facility must be given access to any available individual or service that  
12 provides advocacy for the protection of the person's rights and that assists the person in understanding,  
13 exercising, and protecting the person's rights as described in this section.

14 (17) This section may not:

15 (a) obligate a professional person to administer treatment contrary to the professional's clinical  
16 judgment;

17 (b) prevent a facility from discharging a patient for whom appropriate treatment, consistent with the  
18 clinical judgment of a professional person responsible for the patient's treatment, is or has become impossible  
19 to administer because of the patient's refusal to consent to the treatment;

20 (c) require a facility to admit a person who has, on prior occasions, repeatedly withheld consent to  
21 appropriate treatment; or

22 (d) obligate a facility to treat a person admitted to the facility solely for diagnostic evaluation."  
23

24 **Section 40.** Section 53-24-310, MCA, is amended to read:

25 **"53-24-310. Definitions.** As used in 53-24-310 through 53-24-314, unless the context clearly  
26 indicates otherwise, the following definitions apply:

27 (1) "Alcohol and drug prevention or treatment facility" means a recovery residence, hospital, health  
28 or counseling center, or other entity providing alcohol and drug services.

(2) "Alcohol and drug services" includes evaluation, treatment, residential personal care, habilitation, rehabilitation, counseling, or supervision of persons with substance use disorders or services to persons designed to prevent substance use disorders that either receive funds from the department of public health and human services or assess fees for services provided.

(3) "Certified recovery residence" means a recovery residence, as defined in subsection (9), that has received certification or another form of approval from a certifying organization, as defined in subsection (4).

(4) "Certifying organization" means a recovery residence standards organization or an affiliate of a recovery residence standards organization that operates in the state of Montana and is recognized by the department of public health and human services.

(5) "Informed consent" means voluntary consent by an individual to a placement in a certified recovery residence only after full disclosure by a judge, justice of the peace, or magistrate of the following information:

(a) any limitations or prohibitions against narcotic medication associated with the certified recovery residence; and

(b) whether United States food and drug administration-approved medication-assisted treatment of substance use disorders, including the use of buprenorphine and suboxone, is limited or prohibited.

(6) "Levels of care" means the continuum of support ranging from nonclinical recovery residences to licensed clinical treatment.

(7) "Minor" means an individual under 18 years of age without regard to sex, as defined in [section 1].

(8) "Qualified health care provider" means a person licensed as a physician, psychologist, social worker, clinical professional counselor, marriage and family therapist, addiction counselor, or another appropriate licensed health care practitioner.

(9) "Recovery residence" means a sober living home with a safe, family-like environment that promotes recovery from substance use disorders through services including but not limited to peer support, mutual support groups, and recovery services.

(10) "Sober" means free of alcohol and drugs, except for prescription medications taken as directed

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

9 **"60-5-514. Business eligibility -- criteria -- restrictions.** (1) To be eligible for placement of a  
10 business sign on a specific information sign panel, a business establishment shall meet standards for "GAS",  
11 "FOOD", "LODGING", and "CAMPING" services in rules adopted by the department pursuant to guidelines in  
12 the Manual on Uniform Traffic Control Devices, as amended.

13 (2) (a) Each business identified on a specific information sign shall provide assurance of its  
14 conformity with all applicable laws concerning the provision of public accommodations without regard to race,  
15 color, sex, as defined in 4-4-204 [section 1], culture, social origin or condition, or political or religious ideas.

16 (b) If such a business violates any of these laws, it loses eligibility for business identification on a  
17 specific information sign.

18 (3) No business that owns any outdoor advertising structure in violation of the provisions of Title  
19 75, chapter 15, part 1, may be eligible for business identification on a specific information sign for 1 year after  
20 the illegal outdoor advertising structure is removed unless the owner voluntarily removes it within 45 days of  
21 receiving notification under 75-15-131."

22  
23 **Section 42.** Section 60-5-522, MCA, is amended to read:

24 **"60-5-522. Business eligibility -- criteria -- restrictions.** (1) To be eligible for business identification  
25 on a tourist-oriented directional sign, a business establishment shall meet the following standards for a  
26 business, service, or activity:

27 (a) Gas, food, lodging, and camping services must:

28 (i) be licensed and approved by the state and local agencies regulating the particular type of

1 business;

2 (ii) provide an acceptable level of service to the public;

3 (iii) be in continuous operation at least 8 hours a day, 5 days a week, including Saturday or

4 Sunday; and

5 (iv) have a telephone and restroom facilities available for public use.

6 (b) Recreation services must:

7 (i) be licensed and approved by state and local agencies as required by law;

8 (ii) provide to families and the public activities of interest in which people participate for purposes  
9 of physical exercise, collective amusement, or enjoyment of nature. Such activities may include hiking, golfing,  
10 skiing, boating, swimming, picnicking, fishing, and horseback riding.

11 (c) Tourist services must:

12 (i) be licensed as required by law;

13 (ii) be open to the public at least 8 hours a day, 5 days a week, including Saturday or Sunday,  
14 during the normal tourist season; and

15 (iii) provide a natural, recreational, historical, cultural, educational, or entertainment activity or a  
16 unique or unusual commercial or nonprofit activity, from which the major portion of income or visitors is derived  
17 during normal business seasons from motorists not residing in the immediate area of the activity.

18 (2) Priority under subsection (1)(a) must be given to businesses that are in continuous operation  
19 for 12 months a year.

20 (3) (a) Each business identified on a tourist-oriented directional sign shall provide assurance of its  
21 conformity with all applicable laws concerning the provision of public accommodations without regard to race,  
22 color, sex, as defined in 4-1-204 [section 1], culture, social origin or condition, or political or religious ideas.

23 (b) If a business violates any of these laws, it loses eligibility for business identification on a tourist-  
24 oriented directional sign.

25 (4) A business that owns any outdoor advertising structure in violation of the provisions of Title 75,  
26 chapter 15, part 1, may not be eligible for business identification on a tourist-oriented directional sign for 1 year  
27 after the illegal outdoor advertising structure is removed unless the owner voluntarily removes it within 45 days  
28 of receiving notification under 75-15-131."

1

2           **Section 43.** Section 61-5-107, MCA, is amended to read:

3           **"61-5-107. Application for license or motorcycle endorsement.** (1) Each application for a learner  
4 license, driver's license, commercial driver's license, or motorcycle endorsement must be made on a form  
5 furnished by the department. A voter registration form for mail registration as prescribed by the secretary of  
6 state must be attached to each driver's license application. If the applicant wishes to register to vote, the  
7 department shall accept the registration and forward the form to the election administrator.

8           (2) Each application must include the full legal name, date of birth, sex, as defined in 4-4-204  
9 [section 1], residence address of the applicant [and the applicant's social security number], must include a brief  
10 description of the applicant, and must provide the following additional information:

11           (a) the name of each jurisdiction in which the applicant has previously been licensed to drive any  
12 type of motor vehicle during the 10-year period immediately preceding the date of the application;

13           (b) a certification from the applicant that the applicant is not currently subject to a suspension,  
14 revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving  
15 privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

16           (c) a brief description of any physical or mental disability, limitation, or condition that impairs or  
17 may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor  
18 vehicle on the highway;

19           (d) a brief description of any adaptive equipment or operational restrictions that the applicant relies  
20 upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe  
21 operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and

22           (e) if the applicant is a foreign national whose presence in the United States is temporarily  
23 authorized under federal law, the expiration date of the official document issued to the applicant by the bureau  
24 of citizenship and immigration services of the department of homeland security authorizing the applicant's  
25 presence in the United States.

26           [(3) The department shall keep the applicant's social security number from this source confidential,  
27 except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise  
28 permitted by state law administered by the department and may be provided to the department of public health

1 and human services for use in administering Title IV-D of the Social Security Act.]

2 (4) (a) When an application is received from an applicant who is not ineligible for licensure under  
3 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the  
4 applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year  
5 period. The driving record may be transmitted manually or by electronic medium.

6 (b) When received, the driving records must be appended to the driver's record created and  
7 maintained in this state. The department may rely on information contained in driving records received under  
8 this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a  
9 report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.

10 (5) An individual who is under 26 years of age but at least 15 years of age and who is required to  
11 register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an  
12 opportunity to fulfill those registration requirements in conjunction with an application for a learner license,  
13 driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15  
14 years of age, an individual must be provided an opportunity to be registered by the selective service system  
15 upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by  
16 the department to the selective service system. (Bracketed language terminates on occurrence of contingency--  
17 sec. 1, Ch. 27, L. 1999.)"

18  
19 **Section 44.** Section 72-1-103, MCA, is amended to read:

20 **"72-1-103. General definitions.** Subject to additional definitions contained in the subsequent  
21 chapters that are applicable to specific chapters, parts, or sections and unless the context otherwise requires, in  
22 chapters 1 through 6, the following definitions apply:

23 (1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an  
24 individual authorized to make decisions concerning another's health care, and an individual authorized to make  
25 decisions for another under a natural death act.

26 (2) "Application" means a written request to the clerk for an order of informal probate or  
27 appointment under chapter 3, part 2.

28 (3) "Beneficiary", as it relates to:

1 (a) a trust beneficiary, includes a person who has any present or future interest, vested or  
2 contingent, and also includes the owner of an interest by assignment or other transfer;

3 (b) a charitable trust, includes any person entitled to enforce the trust;

4 (c) a beneficiary of a beneficiary designation, refers to a beneficiary of:

5 (i) an account with POD designation or a security registered in beneficiary form (TOD); or

6 (ii) any other nonprobate transfer at death; and

7 (d) a beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a  
8 trust beneficiary, a beneficiary of a beneficiary designation, a donee, and a person in whose favor a power of  
9 attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

10 (4) "Beneficiary designation" refers to a governing instrument naming a beneficiary of:

11 (a) an account with POD designation or a security registered in beneficiary form (TOD); or

12 (b) any other nonprobate transfer at death.

13 (5) "Child" includes an individual entitled to take as a child under chapters 1 through 5 by intestate  
14 succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a  
15 foster child, a grandchild, or any more remote descendant.

16 (6) (a) "Claims", in respect to estates of decedents and protected persons, includes liabilities of the  
17 decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate that  
18 arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses  
19 and expenses of administration.

20 (b) The term does not include estate taxes or demands or disputes regarding title of a decedent or  
21 protected person to specific assets alleged to be included in the estate.

22 (7) "Clerk" or "clerk of court" means the clerk of the district court.

23 (8) "Conservator" means a person who is appointed by a court to manage the estate of a protected  
24 person.

25 (9) "Court" means the district court in this state having jurisdiction in matters relating to the affairs  
26 of decedents.

27 (10) "Descendant" of an individual means all of the individual's descendants of all generations, with  
28 the relationship of parent and child at each generation being determined by the definition of child and parent

1 contained in this code.

2 (11) "Devise" when used as a noun means a testamentary disposition of real or personal property  
3 and when used as a verb means to dispose of real or personal property by will.

4 (12) "Devisee" means a person designated in a will to receive a devise. For purposes of chapter 3,  
5 in the case of a devise to an existing trust or trustee or to a trustee or trust described by will, the trust or trustee  
6 is the devisee and the beneficiaries are not devisees.

7 (13) "Disability" means cause for a protective order as described by 72-5-409.

8 (14) "Distributee" means any person who has received property of a decedent from the decedent's  
9 personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the  
10 extent of distributed assets or increment to distributed assets remaining in the trustee's hands. A beneficiary of  
11 a testamentary trust to whom the trustee has distributed property received from a personal representative is a  
12 distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a  
13 trustee to whom assets are transferred by will, to the extent of the devised assets.

14 (15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject  
15 to chapters 1 through 5 as originally constituted and as it exists from time to time during administration.

16 (16) "Exempt property" means that property of a decedent's estate that is described in 72-2-413.

17 (17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

18 (18) "Foreign personal representative" means a personal representative appointed by another  
19 jurisdiction.

20 (19) "Formal proceedings" means proceedings conducted before a judge with notice to interested  
21 persons.

22 (20) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with  
23 POD designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar  
24 benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive,  
25 appointive, or nominative instrument of any similar type.

26 (21) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person  
27 pursuant to testamentary or court appointment but excludes one who is merely a guardian ad litem.

28 (22) "Heirs", except as controlled by 72-2-721, means persons, including the surviving spouse and



1 the state, who are entitled under the statutes of intestate succession to the property of a decedent.

2 (23) "Incapacitated person" has the meaning provided in 72-5-101.

3 (24) "Informal proceedings" means proceedings conducted without notice to interested persons by  
4 the clerk of court for probate of a will or appointment of a personal representative.

5 (25) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and  
6 any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or  
7 protected person. The term also includes persons having priority for appointment as personal representative  
8 and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary  
9 from time to time and must be determined according to the particular purposes of and matter involved in any  
10 proceeding.

11 (26) "Issue" of a person means a descendant.

12 (27) "Joint tenants with the right of survivorship" includes co-owners of property held under  
13 circumstances that entitle one or more to the whole of the property on the death of the other or others but  
14 excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to  
15 that party's contribution.

16 (28) "Lease" includes an oil, gas, coal, or other mineral lease.

17 (29) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and  
18 letters of conservatorship.

19 (30) "Minor" means a person who is under 18 years of age.

20 (31) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as  
21 security.

22 (32) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the  
23 time of death.

24 (33) "Organization" means a corporation, business trust, estate, trust, partnership, joint venture,  
25 association, government or governmental subdivision or agency, or any other legal or commercial entity.

26 (34) "Parent" includes any person entitled to take, or who would be entitled to take if the child died  
27 without a will, as a parent under chapters 1 through 5 by intestate succession from the child whose relationship  
28 is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(35) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(36) "Person" means an individual, a corporation, an organization, or other legal entity.

(37) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

(38) "Petition" means a written request to the court for an order after notice.

(39) "Proceeding" includes action at law and suit in equity.

(40) "Property" includes both real and personal property or any interest in that property and means anything that may be the subject of ownership.

(41) "Protected person" has the meaning provided in 72-5-101.

(42) "Protective proceeding" has the meaning provided in 72-5-101.

(43) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(44) "Security" includes any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; collateral trust certificate; transferable share; voting trust certificate; in general, any interest or instrument commonly known as a security; any certificate of interest or participation; or any temporary or interim certificate, receipt, or certificate of deposit for or any warrant or right to subscribe to or purchase any of the foregoing.

(45) "Settlement", in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(46) "Sign" means, with present intent to authenticate or adopt a record other than a will:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(47) "Special administrator" means a personal representative as described by chapter 3, part 7.

(48) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(49) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(50) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or chapters 1 through 5.

(51) "Supervised administration" refers to the proceedings described in chapter 3, part 4.

(52) "Survive" means that an individual has neither predeceased an event, including the death of another individual, nor is considered to have predeceased an event under 72-2-114 or 72-2-712. The term includes its derivatives, such as "survives", "survived", "survivor", and "surviving".

(53) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(54) "Testator" includes an individual of either sex, as defined in ~~4-1-204~~ [section 1].

(55) "Trust" includes an express trust, private or charitable, with additions to the trust, wherever and however created. The term also includes a trust created or determined by judgment or decree under which the 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."

NEW SECTION. **Section 45. Repealer.** The following section of the Montana Code Annotated is

1 repealed:

2 1-1-201. Terms of wide applicability.

3

4 NEW SECTION. Section 46. Codification instruction. [Section 1] is intended to be codified as an  
5 integral part of Title 1, chapter 1, part 2, and the provisions of Title 1, chapter 1, part 2, apply to [section 1].

6

7 NEW SECTION. Section 47. Severability. If a part of [this act] is invalid, all valid parts that are  
8 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
9 the part remains in effect in all valid applications that are severable from the invalid applications.

10

11 NEW SECTION. Section 48. Effective date. [This act] is effective on passage and approval.

12

- END -