

1 SENATE BILL NO. 69

2 INTRODUCED BY G. LAMMERS

3 BY REQUEST OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY ATTORNEY REPORTING REQUIREMENTS
6 RELATED TO CHILDHOOD SEXUAL ABUSE; PROVIDING FOR AN ANNUAL REPORTING REQUIREMENT;
7 AMENDING SECTION-SECTIONS 41-3-210, 41-3-211, AND 41-3-212, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

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

11

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

13 **"41-3-210. County attorney duties -- certification -- retention of records -- reports to attorney
14 general and legislature -- attorney general report.** (1) (a) The county attorney shall gather all case notes,
15 correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the
16 department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within
17 the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older.
18 After a report is made or an investigation is commenced, the following individuals or entities shall provide to the
19 county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials
20 related to the report or investigation:

21 (i) the department;

22 (ii) state and local law enforcement; and

23 (iii) all members of a county or regional interdisciplinary child information and school safety team
24 established under 52-2-211.

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

12 (a) a unique case identifier;

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

14 (c) the date any charges were filed;

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

16 (e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction

17 was obtained, the sentence imposed by the court; and

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

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

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

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

3 (5) The attorney general shall report to the law and justice interim committee each year by August
4 15 and as provided in 5-11-210. The reports must provide:

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

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

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

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

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

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

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

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

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25 **Section 2.** Section 41-3-211, MCA, is amended to read:

26 **"41-3-211. Department report to attorney general.** (1) By July 15 of each year, the department shall
27 report to the attorney general and the law and justice interim committee in accordance with 5-11-210 the

1 number of referrals to county attorneys pursuant to 41-3-202(1)(b)(i) that the department made for each county
2 in the previous fiscal year.

3 (2) If the department believes based upon its investigation or knowledge that a prosecution should
4 be pursued for sexual abuse or sexual exploitation that has not been charged, it shall advise the attorney
5 general and summarize the facts supporting its conclusion."

7 **Section 3.** Section 41-3-212, MCA, is amended to read:

8 **"41-3-212. Department procedures for reports -- recording -- notifications.** (1) A department
9 employee receiving a report of abuse or neglect pursuant to this part shall:

10 (a) obtain the information and provide the notifications specified in this section; and

11 (b) make an audio recording when a report is made by phone. The department shall retain the
12 recording in the same manner as provided for safety and risk assessments in 41-3-202.

13 (2) A department employee receiving a report of abuse or neglect shall request the following
14 information:

15 (a) the specific facts giving rise to the reasonable suspicion of child abuse or neglect, including the
16 name or names of the alleged victims and the name or names of the alleged perpetrator or perpetrators if the
17 report discloses allegations consisting of sexual abuse or sexual exploitation, and the source or sources of the
18 information; and

19 (b) (i) if the person making the report is required under 41-3-201 to report suspected abuse or
20 neglect, the person's name and telephone number and the capacity that makes the person a mandatory
21 reporter under 41-3-201; or

22 (ii) if the person making the report is not a mandatory reporter under 41-3-201, the person's name
23 and telephone number. If the person is unwilling to provide the information, the person receiving the report shall
24 notify the caller that if the caller suspects the child is at serious risk of imminent harm, to call 9-1-1 so the call
25 will be prioritized as an emergency.

26 (3) Reports made under this part are confidential as provided in 41-3-205. The privacy of the
27 person making the report must be protected as provided in 41-3-205(3)(d) and (3)(h).

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8 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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