

Amendment - 1st Reading-white - Requested by: Lola Sheldon-Galloway - (H) Human Services

- 2023

68th Legislature 2023

Drafter: Sue O'Connell, 406-444-3597

HB0461.001.001

1 HOUSE BILL NO. 461
2 INTRODUCED BY L. SHELDON-GALLOWAY
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO REPORTING OF CHILD ABUSE
5 AND NEGLECT; REQUIRING AUDIO RECORDING OF REPORTS; REQUIRING CERTAIN INFORMATION
6 TO BE REQUESTED; REQUIRING NOTIFICATION TO REPORTERS; PROVIDING A PENALTY FOR
7 MAKING A FALSE REPORT; AND AMENDING SECTIONS 41-3-201 AND 41-3-207, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. **Section 1. Department procedures for reports -- recording -- notifications.** (1) A
12 department employee receiving a report of abuse or neglect pursuant to this part shall:

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

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

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

18 (a) the specific facts giving rise to the reasonable suspicion of child abuse or neglect and the
19 source or sources of the information; and

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

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

27 (3) Reports made under this part are confidential as provided in ~~43-1-205~~ 41-3-205. The privacy of

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1 the person making the report must be protected as provided in 41-3-205(3)(d) and (3)(h).

2 (4) A department employee receiving a report pursuant to 41-3-201 shall:

3 (a) to the greatest extent possible, attempt to obtain the name, and phone number, and address of
4 the person making the report and document any other identifying information available, including but not limited
5 to the caller's phone number when identified by the phone system; and

6 (b) if the report is being made by phone, notify the caller that the report is being recorded and the
7 person's identity will be kept confidential.

8 (5) A person making a report must be informed of the penalty for making a false report under this
9 chapter.

10
11 **NEW SECTION. Section 2. Right of aggrieved party.** (1) A person who is alleged to be a
12 perpetrator of abuse or neglect in a report made under this part may file a complaint with the office of the child
13 and family ombudsman county attorney if the person believes the report was false or made with malicious
14 intent. The office-county attorney shall investigate the complaint, including obtaining any recordings made of the
15 reports.

16 (2) If the investigation finds that a report was made with false or malicious intent, the ombudsman
17 shall report the finding to the county attorney having jurisdiction of the matter.

18
19 **Section 3.** Section 41-3-201, MCA, is amended to read:
20 **"41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have
21 reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that
22 a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or
23 neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to
24 the department of public health and human services. The department shall follow the provisions of [section 1] in
25 taking the report.

26 (2) Professionals and officials required to report are:

27 (a) a physician, resident, intern, or member of a hospital's staff engaged in the admission,