

HOUSE BILL NO. 308

INTRODUCED BY M. YAKAWICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REGISTRY OF CERTAIN CRIMINALLY CHARGED INDIVIDUALS COMMITTED FOR MENTAL HEALTH SERVICES; ESTABLISHING REGISTRY REQUIREMENTS AND ALLOWABLE USES; PROVIDING REQUIREMENTS FOR REQUESTING REGISTRY INFORMATION; PROVIDING FOR CONFIDENTIALITY OF REGISTRY INFORMATION; PROVIDING A PENALTY FOR UNAUTHORIZED DISCLOSURE; AND AMENDING 50-16-602."

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

NEW SECTION. Section 1. Registry of forensic patients -- allowable uses -- confidentiality -- penalties. (1) The department of public health and human services shall establish a registry of persons who have been committed to the Montana state hospital or another mental health facility as part of a criminal proceeding in which the person was charged with a sexual offense or a violent offense, as the terms are defined in 46-23-502, and:

(a) ordered to undergo an examination pursuant to 46-14-202 to determine the person's fitness to proceed with the criminal proceeding;

(b) committed to the department's custody pursuant to 46-14-221 for treatment in a mental health facility to gain fitness to proceed, if the person was later determined fit to proceed and convicted of the criminal charge pending at the time of commitment; or

(c) committed to the department's custody pursuant to 46-14-301 after being found not guilty due to a mental disease or disorder.

(2) The following information must be entered into the registry:

(a) the person's name, date of birth, and place of birth;

(b) the crime with which the person was charged when the issue of the person's mental state was raised;

(c) the date the criminal charge was filed;

- 1 (d) the city, town, or county in which the crime occurred; and
2 (e) if known, the city, town, or county to which the person relocated after the period of commitment
3 terminated.

4 (3) Information in the registry is confidential and may be accessed only by written request of an
5 entity providing residential treatment or care for individuals that is:

- 6 (a) licensed as a long-term care facility as defined in 50-5-101;
7 (b) licensed as a community residential facility as defined in 76-2-411(1) or (3); or
8 (c) providing a home-like setting for individuals working on maintaining their sobriety.

9 (4) An entity meeting the requirements of subsection (3) may access the registry for information on
10 a person who is receiving services from the entity or who has requested services from the entity. In making a
11 request for registry information, the entity shall:

12 (a) obtain written consent to access registry information from the person who is the subject of the
13 proposed inquiry; and

14 (b) submit the written consent and authorization form to the department when making the request
15 for registry information.

16 (5) (a) Information in the registry is confidential and may be shared only with employees of the
17 entity requesting the information to make treatment-related decisions, including decisions related to the safety
18 of the person for whom registry information was obtained and for other persons in the treatment setting. Any
19 employee receiving registry information shall maintain the confidentiality of the information.

20 (b) A person who obtains information from the registry by misrepresenting the purpose of the
21 request or who shares information from the registry with persons not authorized to receive the information is
22 guilty of a misdemeanor and on conviction is punishable by a fine of up to \$1,000 and up to 1 year in jail.

23 (6) The department shall establish procedures for requesting and providing information from the
24 registry, including procedures for verifying the purpose of a request for the information.

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26 **Section 2.** Section 50-16-602, MCA, is amended to read:

27 **"50-16-602. Definitions.** As used in this part, unless the context requires otherwise, the following
28 definitions apply:

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

3 (2) (a) "Health care information" means information, whether oral or recorded in any form or
4 medium, that identifies or can readily be associated with the identity of an individual, including one who is
5 deceased, and that relates to that individual's health care or status. The term includes any record of disclosures
6 of health care information and any information about an individual received pursuant to state law or rules
7 relating to communicable disease.

8 (b) The term does not include:

9 (i) _____ vital statistics information gathered under Title 50, chapter 15; or

10 (ii) _____ information in the registry of forensic patients provided for in [section 1].

11 (3) "Local board" means a county, city, city-county, or district board of health provided for in Title
12 50, chapter 2, part 1.

13 (4) "Local health officer" means a county, city, city-county, or district health officer appointed by a
14 local board."

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16 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
17 integral part of Title 53, chapter 1, part 6, and the provisions of Title 53, chapter 1, part 6, apply to [section 1].

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