

SENATE BILL NO. 35

INTRODUCED BY F. THOMAS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO SCHOOL SAFETY; CLARIFYING COMMUNICATIONS BETWEEN YOUTH COURTS AND SCHOOL DISTRICTS; STRENGTHENING COUNTY INTERDISCIPLINARY CHILD INFORMATION AND SCHOOL SAFETY TEAMS; AMENDING SECTIONS 41-5-215 AND 52-2-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 41-5-215, MCA, is amended to read:

"41-5-215. Youth court and department records -- notification of school. (1) Formal youth court records, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, and orders and decrees on file with the clerk of court, are public records and are open to public inspection until the records are sealed under 41-5-216.

(2) Social, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers are open only to the following:

- (a) the youth court and its professional staff;
- (b) representatives of any agency providing supervision and having legal custody of a youth;
- (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;
- (d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed ~~upon~~ on the party;
- (e) the county attorney;
- (f) the youth who is the subject of the report or record, after emancipation or reaching the age of majority;
- (g) a member of a county interdisciplinary child information and school safety team formed under 52-2-211 who is not listed in this subsection (2);
- (h) members of a local interagency staffing group provided for in 52-2-203;
- (i) persons allowed access under 42-3-203; and
- (j) persons conducting evaluations as required in 41-5-2003.

1 ~~(3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e), subject to the provisions of~~
 2 ~~subsection (3)(b) of this section, and according to the guidelines in subsection (3)(f) of this section, the chief~~
 3 ~~probation officer or other designee from the district that has jurisdiction over the matter or the department of~~
 4 ~~corrections for youth under the supervision of the department shall notify the school district that the youth~~
 5 ~~presently attends or the school district that the youth has applied to attend of a youth's past or current drug use~~
 6 ~~or criminal activity if after an investigation has been completed:~~

7 ~~—— (i) a petition has been filed with the youth court or charges are filed in district court alleging a violation~~
 8 ~~of any section in Title 45, chapter 5; or~~

9 ~~—— (ii) the youth has admitted the allegation and the acts involve any offense in which another youth was an~~
 10 ~~alleged victim and the admitted activity has a bearing on the safety of children:~~

11 ~~—— (b) Notification under subsection (3)(a) may not be given for status offenses:~~

12 ~~—— (c) Notification under subsection (3)(a) terminates upon the end of the youth court's supervision or the~~
 13 ~~discharge of the youth by the department of corrections:~~

14 ~~—— (d) A school district may not refuse to accept the student if refusal violates the federal Individuals With~~
 15 ~~Disabilities Education Act or the federal Americans With Disabilities Act of 1990:~~

16 ~~—— (e) The administrative officials of the school district may enforce school disciplinary procedures that~~
 17 ~~existed at the time of the admission or adjudication. The information may not be further disclosed and may not~~
 18 ~~be made part of the student's permanent records:~~

19 ~~—— (f) Notification to the school district under subsection (3)(a) must be provided to:~~

20 ~~—— (i) the school district superintendent or the superintendent's designee in districts that employ a~~
 21 ~~superintendent;~~

22 ~~—— (ii) the building principal or the principal's designee in school districts where the building principal is the~~
 23 ~~only administrator; or~~

24 ~~—— (iii) the county superintendent in school districts that do not employ an administrator:~~

25 ~~(4)(3) In all cases, a victim is entitled to all information concerning the identity and disposition of the~~
 26 ~~youth, as provided in 41-5-1416.~~

27 ~~(5)(4) The school district may disclose, without consent, personally identifiable information from an~~
 28 ~~education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the~~
 29 ~~Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving~~
 30 ~~the information shall certify in writing to the school district that the information will not be disclosed to any other~~

1 party except as provided under state law without the prior consent of the parent or guardian of the pupil.

2 ~~(6)(5)~~ Any part of records information secured from records listed in subsection (2), when presented to
3 and used by the court in a proceeding under this chapter, must also be made available to the counsel for the
4 parties to the proceedings."

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6 **Section 2.** Section 52-2-211, MCA, is amended to read:

7 **"52-2-211. County interdisciplinary child information and school safety team.** (1) The following
8 ~~persons and agencies operating within a county commissioners of each~~ county shall ~~by written agreement form~~
9 a county interdisciplinary child information and school safety team by written agreement signed by authorized
10 representatives of the following:

11 (a) the youth court;

12 (b) the county attorney;

13 (c) the department of public health and human services;

14 (d) the county superintendent of schools;

15 (e) the sheriff;

16 (f) the chief of any police force;

17 (g) ~~the superintendents of all~~ public school districts operating within the boundaries of the county; and

18 (h) the department of corrections.

19 (2) The persons and agencies signing a written agreement under subsection (1) may by majority vote
20 allow the following persons to sign the written agreement and join the team:

21 (a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental health
22 care;

23 (b) entities operating private elementary and secondary schools;

24 (c) attorneys; and

25 (d) a person or entity that has or may have a legitimate interest in one or more children that the team
26 will serve.

27 (3) (a) The members of the team or their designees may form one or more auxiliary teams for the
28 purpose of providing service to a single child, a group of children, or children with a particular type of problem or
29 for any other purpose. Auxiliary teams are subject to the written agreement.

30 (b) A member of an auxiliary team must be a person who has personal knowledge of or experience with

1 the child or children in the member's respective field.

2 (4) The purpose of the team and written agreement is to ~~facilitate the~~ ensure the timely exchange and
 3 sharing of information that one or more team members may be able to use in serving a child in the course of their
 4 professions and occupations, including but not limited to abused or neglected children, delinquent youth, and
 5 youth in need of intervention, and of information relating to issues of school safety. Information regarding a child
 6 that a team member supplies to other team members or that is disseminated to a team member under 41-3-205
 7 or 41-5-215(2) ~~and (3)~~ may not be disseminated beyond the organizations or departments that have an
 8 authorized member on the team under subsection (1) or (2).

9 (5) The terms of the written agreement must provide for the rules under which the team will operate, the
 10 method by which information will be shared, distributed, and managed, and any other matters necessary to the
 11 purpose and functions of the team.

12 (6) The terms of the written agreement must state how the team will coordinate its efforts with
 13 interdisciplinary child protective teams as provided in 41-3-108 and youth placement committees as provided for
 14 in 41-5-121.

15 (7) To the extent that the county interdisciplinary child information and school safety team is involved
 16 in a proceeding that is held prior to adjudication of a youth in youth court, the team satisfies the requirements of
 17 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974. Montana school districts
 18 may release education records to the team. The terms of the written agreement described in subsection (5) must
 19 include a requirement that the officials and authorities to whom the information is disclosed certify in writing to
 20 the school district that is releasing the education records that the education records or information from the
 21 education records will not be disclosed to any other party without the prior written consent of the parent or
 22 guardian of the student.

23 (8) The county superintendent of schools shall provide to the office of public instruction a current copy
 24 of the written agreement under subsection (1) no later than September 1. The office of public instruction shall
 25 report to the education interim committee no later than September 15 any county that has not provided a written
 26 agreement under subsection (1)."

27

28 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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