

SENATE BILL NO. 40

INTRODUCED BY F. SMITH

BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO CREATE AND MAINTAIN AN ELECTRONIC DIRECTORY PHOTOGRAPH REPOSITORY; PROVIDING THAT THE DIRECTORY PHOTOGRAPHS MAY BE USED ONLY IF A STUDENT IS IDENTIFIED AS A MISSING CHILD; REQUIRING A PARENT OR GUARDIAN TO OPT IN TO PARTICIPATE IN THE REPOSITORY; REQUIRING SCHOOL DISTRICT TRUSTEES TO SEND AN ANNUAL NOTICE WITH OPT-IN PROVISION TO PARENTS AND GUARDIANS; AUTHORIZING DEPARTMENT OF JUSTICE STAFF TO ACCESS THE REPOSITORY; AMENDING SECTIONS 44-2-505 AND 44-2-506, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Electronic directory photograph repository -- use in search for missing child only -- annual opt-in notice required. (1) The office of public instruction shall create and maintain an electronic directory photograph repository to store directory photographs of individual students. Any directory photographs that are collected and stored pursuant to this section may be used for the sole purpose of making a current photograph available to a law enforcement authority when a student is identified as a missing child.

(2) When a student is identified as a missing child pursuant to Title 44, chapter 2, part 5, the superintendent of public instruction shall:

(a) provide the directory photograph, if there is one available in the repository, to the appropriate law enforcement authority; and

(b) include the directory photograph with the monthly list of missing Montana school children distributed pursuant to 44-2-506.

(3) Inclusion of an individual student's directory photograph in the electronic directory photograph repository is optional. The trustees of each school district shall send an annual notice to the parent or guardian of each student with:

(a) information about the electronic directory photograph repository;

(b) a form to allow the parent or guardian to choose to have the student's photograph included in the

1 repository for that school year;

2 (c) information about the use of the directory photographs if a student is identified as a missing child; and

3 (d) information about how to request the student's directory photograph be removed from the repository.

4 (4) The office of public instruction shall delete from the repository any directory photograph that is 2 years
5 old or older.

6 (5) THE OFFICE OF PUBLIC INSTRUCTION SHALL PROVIDE CONTINUOUS ACCESS TO THE REPOSITORY TO
7 DESIGNATED MISSING PERSONS CLEARINGHOUSE STAFF AT THE DEPARTMENT OF JUSTICE. ACCESS TO THE REPOSITORY
8 MUST INCLUDE THE NECESSARY AUTHORITY TO UPLOAD AND DOWNLOAD PHOTOGRAPHS OF STUDENTS WHO HAVE BEEN
9 REPORTED MISSING.

10

11 **Section 2.** Section 44-2-505, MCA, is amended to read:

12 **"44-2-505. Duties of law enforcement authority.** Whenever a parent, guardian, or legal custodian of
13 a child files a report with a law enforcement authority that the child is missing, the law enforcement authority shall
14 within 2 hours of the report:

15 (1) inform all on-duty law enforcement officers of the existence of the missing child report;

16 (2) communicate the report to all other law enforcement authorities having jurisdiction in the county; ~~and~~

17 (3) enter the missing child report into the national crime information center computer system; and

18 (4) if the missing child is enrolled in a Montana public school district, request the child's directory
19 photograph from the superintendent of public instruction pursuant to [section 1]. If a directory photograph is
20 available, it must be included with the missing child report."

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22 **Section 3.** Section 44-2-506, MCA, is amended to read:

23 **"44-2-506. List of missing Montana school children.** (1) The superintendent of public instruction shall
24 assist the missing children information program provided for in 44-2-503 in identifying and locating missing
25 children who are enrolled in Montana public school districts in kindergarten through grade 12 by:

26 (a) collecting each month a list of missing Montana school children as provided by the missing children
27 information program provided for in 44-2-503;

28 (b) distributing the list of missing school children on a monthly basis, unless the list has no change from
29 the previous month's information, to all school districts admitting children to kindergarten through grade 12;

30 (c) designing the list to include pertinent available information for identification of the missing school

1 child, including ~~if possible a recent~~ a directory photograph of the child if available pursuant to [section 1]; and
2 (d) notifying the appropriate law enforcement agency and the missing children information program as
3 soon as any additional information is obtained or contact is made with respect to a missing school child.
4 (2) Each school district in Montana shall:
5 (a) distribute to each school building within the district the list of missing school children provided for in
6 subsection (1); and
7 (b) notify the appropriate law enforcement agency at the earliest known contact with any child whose
8 name appears on the list of missing school children."
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10 NEW SECTION. Section 4. Notification to tribal governments. The secretary of state shall send a
11 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
12 Chippewa tribe.
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14 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
15 integral part of Title 20, chapter 7, part 13, and the provisions of Title 20, chapter 7, part 13, apply to [section 1].
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17 NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2019.
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