

Amendment - 1st Reading/2nd House-blue - Requested by: Dennis Lenz - (H) Human Services

- 2025

69th Legislature 2025

Drafter: Chanan Brown,

SB0468.002.001

SENATE BILL NO. 468

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A STATEWIDE CENTRAL REGISTRY FOR SUBSTANTIATED REPORTS OF CHILD ABUSE OR NEGLECT; ~~REQUIRING NOTICE AND A HEARING BEFORE AN INDIVIDUAL IS INCLUDED IN THE CENTRAL REGISTRY;~~ ESTABLISHING PROCEDURES FOR EXPUNGEMENT FROM THE CENTRAL REGISTRY; PROVIDING DEFINITIONS; ~~AMENDING SECTIONS 41-3-202 AND 41-3-205, MCA;~~ AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the 5th and 14th Amendments to the United States Constitution prohibit governments from depriving individuals of their liberty or property interests without due process of the law; and

WHEREAS, this state has established procedures for collecting and maintaining child abuse and neglect investigation records in a central registry that includes the identities of individuals alleged to have abused or neglected a child; and

WHEREAS, the names maintained in Montana's central registry may be disclosed to certain third parties in the course of background checks related to an individual's employment, licensure, and volunteer activities; and

WHEREAS, the disclosures may have a significant negative impact on an individual's liberty and property interests, including the loss or denial of employment and the loss of reputation in the community; and

WHEREAS, the Legislature wishes to ensure that this state's procedures for listing individuals on the central registry comport with constitutional due process requirements.

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

NEW SECTION. Section 1. Central registry -- purpose -- determinations. (1) There is established a statewide central registry to maintain information on individuals who are the subject of substantiated determinations of child abuse or neglect. The information may be made available during a background check of

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an individual as provided for in 41-3-205 and may affect the individual's ability to volunteer or obtain employment or licensure in areas in which the individual may have unsupervised contact with children, such as child care, foster care, or group home care.

(2) For the purposes of [sections 1 through 4 AND 2], a determination of child abuse or neglect must be categorized according to the following definitions:

(a) (i) "Substantiated" means that, ~~following an investigation by the department and a hearing in district court, the court has~~ the department has investigated the reported act of child abuse or neglect and determined by a preponderance of the evidence that ~~the reported an~~ an act of child abuse or neglect occurred.

~~(ii) — A substantiated determination includes:~~

~~(A) — an individual who admits to an allegation of child abuse or neglect; or~~

~~(B) — an individual who is convicted of a criminal offense related to child abuse or neglect or exploitation of a child.~~

~~(iii) — A substantiated determination may not be based solely on an individual's agreement to comply with a treatment plan created by the department to receive services.~~

~~(iv) — A substantiated determination must be reviewed and upheld by a district court as provided in [section 3].~~

~~(v)(iv)(ii)~~ The subject of a substantiated determination may be added to the central registry and must be notified of the consequences of being listed in the central registry, as well as the subject's rights and procedures for requesting expungement from the central registry.

(b) "Unfounded" means that, ~~following an investigation,~~ the department ~~determined that:~~ has investigated the reported act of child abuse or neglect and there is no evidence to corroborate the report.

~~(i) — the report was false;~~

~~(ii) — the report was inherently improbable;~~

~~(iii) — the report involved an accidental injury;~~

~~(iv) — the reported act did not constitute child abuse or neglect; or~~

~~(v) — evidence indicated that the reported act of child abuse or neglect could not have occurred.~~

(c) "Unsubstantiated" means that: the department has investigated the reported act of child abuse

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1 ~~or neglect and is unable to determine by a preponderance of the evidence that an act of child abuse or neglect~~
2 ~~occurred.~~

3 ~~(i) — following an investigation, the department could not determine that the reported act of child~~
4 ~~abuse or neglect occurred; or~~

5 ~~(ii) — following a hearing, the court could not determine by a preponderance of the evidence that the~~
6 ~~reported act of child abuse or neglect occurred.~~

7
8 **NEW SECTION. Section 2. Central registry — notice — procedures.** (1) An individual who is the
9 subject of a child abuse or neglect report that is determined by the department to be substantiated may not be
10 added to the central registry absent notice and a hearing during the adjudication process.

11 (2) — Within 14 days of determining that a reported act of child abuse or neglect is substantiated, the
12 department shall provide the individual with certified written notice of the department's intent to add the
13 individual to the central registry. The notice must include:

14 (a) — a clear statement of the specific allegations that will be added to the central registry, including
15 the name of the alleged victim, the injuries or harm alleged to have resulted from the child abuse or neglect,
16 and the date on which the report was made;

17 (b) — the consequences of being listed in the central registry, including possible negative impacts on
18 the individual's employment, licensure, and ability to have future contact with children, including volunteer and
19 school activities;

20 (c) — the maximum amount of time the individual's name may be included in the central registry;

21 (d) — a complete copy of the record that will be added to the central registry; and

22 (e) — confirmation that the department has requested a substantiation hearing before the district
23 court during the adjudication hearing.

24 (3) — The department may not add an individual to the central registry or release information to any
25 third parties until all appeals have been exhausted or waived.

26 (4) — If a petition for emergency protective services has been filed with the district court pursuant to
27 41-3-427 in which the allegations of child abuse or neglect are at issue, the hearing on the substantiation