

SENATE BILL NO. 139

INTRODUCED BY M. DUNWELL, S. NOVAK, C. NEUMANN, J. MORIGEAU, T. RUNNING WOLF, E. KERR-
CARPENTER, A. OLSEN

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE EXEMPTION FOR MEMBERS OF THE
CLERGY IN THE MANDATORY REPORTING OF CHILD ABUSE AND NEGLECT; AMENDING SECTION 41-
3-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 41-3-201, MCA, is amended to read:

"41-3-201. Reports. (1) When the professionals and officials listed in subsection (2) know or have
reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that
a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or
neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to
the department. The department shall follow the provisions of 41-3-212 in taking the report.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission,
examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or
any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker licensed pursuant to Title 37, child protection specialist, operator or employee
of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program
organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care
facility;

(f) a foster care, residential, or institutional worker;

- 1 (g) a peace officer or other law enforcement official;
- 2 (h) a member of the clergy, as defined in 15-6-201(2)(b);
- 3 (i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of
- 4 alleged abuse or neglect;
- 5 (j) an employee of an entity that contracts with the department to provide direct services to
- 6 children; and
- 7 (k) an employee of the department while in conduct of the employee's duties.

8 (3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant

9 shall report to the department any infant known to the professional to be affected by a dangerous drug, as

10 defined in 50-32-101.

11 (4) Any person may make a report under this section if the person knows or has reasonable cause

12 to suspect that a child is abused or neglected. The department shall follow the provisions of 41-3-212 when

13 taking the report.

14 (5) (a) When a professional or official required to report under subsection (2) makes a report, the

15 department:

- 16 (i) may share information with:
- 17 (A) that professional or official; or
- 18 (B) other individuals with whom the professional or official works in an official capacity if the
- 19 individuals are part of a team that responds to matters involving the child or the person about whom the report
- 20 was made and the professional or official has asked that the information be shared with the individuals; and
- 21 (ii) shall share information with the individuals listed in subsections (5)(a)(i)(A) and (5)(a)(i)(B) on
- 22 specific request. Information shared pursuant to this subsection (5)(a)(ii) may be limited to the outcome of the
- 23 investigation and any subsequent action that will be taken on behalf of the child who is the subject of the report.
- 24 (b) The department may provide information in accordance with 41-3-202(8) and also share
- 25 information about the investigation, limited to its outcome and any subsequent action that will be taken on
- 26 behalf of the child who is the subject of the report.
- 27 (c) Individuals who receive information pursuant to this subsection (5) shall maintain the
- 28 confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a A (a) Except as provided in subsection (6)(b), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) ~~— A member of the clergy or a priest is not required to make a report under this section if:~~
(i) ~~— the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;~~
(ii) ~~— the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and~~
(iii) ~~— the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.~~

(c) ~~— A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.~~

(b) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law or church doctrine.

(7) The reports referred to under this section must contain:
(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;
(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;
(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and
(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

- END -