

SENATE BILL NO. 69

INTRODUCED BY G. LAMMERS

BY REQUEST OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY ATTORNEY REPORTING REQUIREMENTS RELATED TO CHILDHOOD SEXUAL ABUSE; PROVIDING FOR AN ANNUAL REPORTING REQUIREMENT; AMENDING SECTION 41-3-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 41-3-210, MCA, is amended to read:

"41-3-210. County attorney duties -- certification -- retention of records -- reports to attorney general and legislature -- attorney general report. (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

- (i) the department;
- (ii) state and local law enforcement; and
- (iii) all members of a county or regional interdisciplinary child information and school safety team established under 52-2-211.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing

1 to the person who initially reported the information that the county attorney received the report. The certification
2 must include the date the report was received and the age and gender of the alleged victim. If the report was
3 anonymous, the county attorney shall provide the certification to the department. If the report was made to the
4 county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

5 (2) The county attorney shall retain records relating to the report or investigation, including the
6 certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

7 (3) ~~On or before January 1 and June 1 of each year~~ On or before June 1 of each year, each
8 county attorney shall report to the attorney general. The report to the attorney general must include, for each
9 report from the department or investigation by law enforcement:

10 (a) a unique case identifier;

11 (b) the date that the initial report or allegation was received by the county attorney;

12 (c) the date any charges were filed;

13 (d) the date of any decision to decline to prosecute;

14 (e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction
15 was obtained, the sentence imposed by the court; and

16 (f) the number of certifications made as required by subsection (1)(c), including the number of
17 certifications made to the department.

18 (4) (a) The attorney general shall create a form for county attorneys to use when submitting reports
19 required by subsection (3). The form must allow collection of the information required by subsection (3) on an
20 aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to
21 prosecute.

22 (b) The information provided by a county attorney on the forms is confidential criminal justice
23 information as defined in 44-5-103.

24 (5) The attorney general shall report to the law and justice interim committee each year by August
25 15 and as provided in 5-11-210. The reports must provide:

26 (a) aggregated information regarding the status of the cases reported in subsection (3) by the
27 county attorneys, except for those cases pending review of the county attorney or uncharged cases still under
28 investigation, including data on the total number of cases reported;

- 1 (b) the number of cases declined for prosecution;
- 2 (c) the number of cases charged;
- 3 (d) any action in the past fiscal year that the attorney general took under the authority of 2-15-501
- 4 based on the reports submitted as required in subsection (3). A report made pursuant to this subsection (5)(d)
- 5 may not include the name of the county.
- 6 (e) after consideration of the information provided by the department pursuant to 41-3-211, any
- 7 county attorney who failed to provide a complete report required by subsection (3)."

8

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

10

- END -