



**MONTANA
ADMINISTRATIVE
REGISTER**



DEPARTMENT OF JUSTICE

NOTICE OF ADOPTION

MAR NOTICE NO. 2026-172.2

Summary

Adoption of new rules implementing the Emergency Lodging and Recovery Program for victims of domestic violence or human trafficking.

Previous Notice(s) and Hearing Information

On July 24, 2026, the Department of Justice published MAR Notice No. 2026-172.1 pertaining to the public hearing on the proposed adoption of the department's rules in the 2026 Montana Administrative Register, Issue Number 14. The department held a public hearing on the proposed rulemaking on August 13, 2026. Written comments on the proposed rulemaking were submitted until the August 21, 2026, deadline.

Final Rulemaking Action – Effective September 26, 2026

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (23.12.1001) DEFINITIONS

NEW RULE 2 (23.12.1002) DESIGNATED ORGANIZATIONS

NEW RULE 3 (23.12.1003) ELIGIBILITY FOR EMERGENCY LODGING

NEW RULE 5 (23.12.1005) PARTICIPATING LODGING ESTABLISHMENTS

NEW RULE 6 (23.12.1006) REIMBURSEMENT TO PARTICIPATING LODGING ESTABLISHMENTS

ADOPT WITH CHANGES

The agency has adopted the following rule with changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE 4 (23.12.1004) REFERRALS BY DESIGNATED ORGANIZATIONS

- (1) Only a designated organization may make a referral for emergency lodging.
- (2) A designated organization may authorize up to five nights of emergency lodging within a 30-day period, as follows:
 - (a) Only nights occurring on a business day count toward the five-night limitation. Nights of lodging that occur on a Saturday, Sunday, or a state-recognized holiday do not count toward the limitation.
 - (b) The five-night limitation applies within the 30-day period beginning on the first night of emergency lodging provided to the individual.
 - (c) The nights may be consecutive or nonconsecutive and may occur at the same or different participating lodging establishments.
- (3) A designated organization shall maintain the confidentiality of individuals and other persons receiving lodging under the program, as follows:
 - ~~(a) Upon the department's request, a designated organization shall disclose the identities of individuals and other persons receiving lodging to the department.~~
 - ~~(b) Except as authorized in writing by the department or otherwise required by law, identities shall remain confidential and may not be disclosed.~~
 - (a) Personally identifying information shall remain confidential and may not be disclosed except pursuant to a valid release or as otherwise permitted or required by applicable law or court order.
 - ~~(c)(b) To the extent practicable, Reservations shall be made using a unique program identifier or alias instead of the individual's name.~~
- (4) A designated organization shall submit a referral report to the department using a form or method prescribed by the department within the time period established by the department.
- (5) Upon the department's request, and subject to applicable confidentiality requirements, a designated organization shall cooperate with the department's investigation into suspected fraud, misuse of the program, or noncompliance with applicable program requirements. Information obtained by the department shall be confidential and may be used or disclosed by the department only as necessary for the investigation or as otherwise authorized by law.

Authorizing statute(s): 44-4-1505, MCA

Implementing statute(s): 44-4-1505, 44-4-1506, MCA

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: The Montana Legal Services Association (MLSA) and the Montana Coalition Against Domestic and Sexual Violence (coalition) commented on the confidentiality provisions in NEW RULE 4. Both expressed concern that proposed NEW RULE 4(3)(a), which required designated organizations to disclose the identities of individuals receiving emergency lodging upon the department's request, could compromise victim safety and confidentiality. Both also raised concerns regarding the advocate privilege under 26-1-812, MCA, and recommended removing the requirement to disclose identifying information.

MLSA additionally expressed concern that the proposed rule did not limit the circumstances under which the department could request identifying information or specify how information obtained by the department would be used, maintained, and protected. MLSA recommended that, if the disclosure provision were retained, additional protections be added governing the disclosure and use of identifying information.

The coalition stated that federal funding requirements applicable to some organizations restrict disclosure of identifying information. The coalition also raised concerns about confidentiality requirements applicable to third-party booking platforms and recommended that the rules address their confidentiality obligations. As an alternative to requiring disclosure of identities, the coalition proposed requiring designated organizations to cooperate with department investigations into violations of the program rules.

Response 1: The department agrees in part and has amended NEW RULE 4. The department recognizes the importance of protecting the confidentiality and safety of individuals receiving emergency lodging.

The department recognizes that state and federal confidentiality requirements may restrict a designated organization's ability to disclose personally identifying information. Those requirements do not, however, prohibit disclosure in all circumstances. For example, federal confidentiality requirements applicable to certain federally funded victim service providers permit disclosure with the victim's qualifying consent or when disclosure is compelled by a statutory or court mandate. The department will comply with applicable confidentiality requirements when seeking personally identifying information. To reflect these legal

constraints, the department has amended NEW RULE 4(3) to provide that personally identifying information must remain confidential and may be disclosed only pursuant to a valid release or as otherwise permitted or required by applicable law or court order. The department has also removed proposed NEW RULE 4(3)(a), which generally required designated organizations to disclose the identities of individuals receiving lodging upon the department's request.

In response to the coalition's recommendation, the department added NEW RULE 4(5), requiring designated organizations to cooperate with department investigations into suspected fraud, misuse of the program, or noncompliance with applicable program requirements, subject to applicable confidentiality requirements. In response to MLSA's concerns regarding the department's handling of information it obtains, the department also added a requirement that information obtained by the department be treated as confidential and used or disclosed only as necessary for the investigation or as otherwise authorized by law.

The department declines to add requirements governing third-party booking platforms because such requirements are beyond the scope of the rules proposed in this rulemaking. The department intends to address appropriate confidentiality requirements in its contractual arrangements with any third-party booking platform used to administer the program.

Comment 2: The Montana Lodging and Hospitality Association (MLHA) recommended that all nights, including weekends and state holidays, count toward the five-night limit in NEW RULE 4(2). MLHA stated that excluding weekends and holidays may extend the duration of a stay and create uncertainty for lodging establishments because a room remains occupied regardless of the day of the week.

Response 2: The department appreciates the comment but declines to amend NEW RULE 4(2). The department intentionally excludes weekends and state holidays from the five-night calculation so that individuals have the benefit of five nights associated with business days when services and resources needed for stabilization and recovery are generally more available. The department does not believe this creates uncertainty because the rule clearly identifies which nights count toward the limit. Additionally, participating lodging establishments may offer lodging based on room availability and are not required to accept a particular referral.

Sponsor's Comments

Pursuant to 2-4-305(1)(b)(ii), MCA, the department republishes below the unredacted comments submitted by Senator Daniel Zolnikov, the primary sponsor of Senate Bill 409 (2025):

These rules look great. I would require a police report or some other document to ensure the authorities can get involved to make sure this type of violence stops and the violence is not a cyclical occurrence. It is never a one time thing and the next incidents may lead to death.

Second, I would clearly include that homeless situations are NOT eligible for lodging situations under 23.12.1003 and that any organization that commits perjury or fraud attempting to abuse this program will be prosecuted and forever banned from the list.

Since this has already happened in the short existence of the program and we are seeing record amounts of fraud and abuse, I would highly recommend including something to address it. A rough example can be found below in bold.

Thank you.

23.12.1003 ELIGIBILITY FOR EMERGENCY LODGING

- (1) Lodging shall only be provided to an individual who qualifies for emergency lodging and other persons whose lodging the designated organization determines is reasonably necessary for the individual's safety, care, or well-being.
- (2) An individual qualifies for emergency lodging if:
 - (a) the individual is a victim of domestic violence or human trafficking; and
 - (b) the individual is in immediate need of temporary shelter because of domestic violence or human trafficking, including when lodging is necessary for the individual's safety, security, recovery, or stabilization.
- (3) An individual who is in need of shelter but is neither a victim or human trafficking or domestic violence is NOT eligible for this program. Any use of this program beyond 2 (a) and 2 (b) will result in an immediate removal of the designated organization list, a full audit and prosecution for the amount fraudulently claimed.

Response to Bill Sponsor

The department received and considered Senator Zolnikov's comments before publication of the proposal notice. The proposed rules published in MAR Notice No. 2026-172.1 therefore already reflected the changes the department made in response to his comments. Specifically, the department added language clarifying that the program is not intended to provide general homelessness assistance unrelated to domestic violence or human trafficking. The department also included provisions allowing it to address fraud and misuse of the program by referring suspected criminal conduct to the appropriate law enforcement agency and pursuing recovery of improperly obtained program funds.

The department did not incorporate Senator Zolnikov's remaining recommendations. The department did not require a police report or other specific documentation because 44-4-1505, MCA, does not impose such a requirement for eligibility. The department did not require

prosecution because charging decisions are made by the appropriate prosecuting authority. The department also retained discretion to reinstate a designated organization rather than imposing a permanent prohibition because circumstances may warrant reinstatement, including when deficiencies have been corrected or there has been a change in leadership.

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Approval

Christian Corrigan, Solicitor General