

SENATE BILL NO. 128

INTRODUCED BY J. BOHLINGER

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE CRIMINAL PENALTIES FOR PROSTITUTION, PROMOTING PROSTITUTION, AND AGGRAVATED PROMOTION OF PROSTITUTION; PROVIDING FOR A MANDATORY MINIMUM SENTENCE FOR AGGRAVATED PROMOTION OF PROSTITUTION; PROVIDING FOR THE POSSIBILITY OF A LIFE SENTENCE WITHOUT POSSIBILITY OF PAROLE FOR THIRD OFFENSE AGGRAVATED PROMOTION OF PROSTITUTION; REVISING THE DEFINITIONS OF "CORRECTIONAL INSTITUTION" AND "INMATE"; AND AMENDING SECTIONS 45-2-101, 45-5-601, 45-5-602, 45-5-603, 46-18-205, AND 46-18-219, MCA."

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

Section 1. Section 45-2-101, MCA, is amended to read:

"45-2-101. General definitions. Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

- (1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.
- (2) "Administrative proceeding" means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.
- (3) "Another" means a person or persons other than the offender.
- (4) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested. Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.
- (5) "Bodily injury" means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment.
- (6) "Cohabit" means to live together under the representation of being married.



1 (7) "Common scheme" means a series of acts or omissions motivated by a purpose to accomplish
2 a single criminal objective or by a common purpose or plan that results in the repeated commission of the
3 same offense or that affects the same person or the same persons or the property of the same person or
4 persons.

5 (8) "Computer" means an electronic device that performs logical, arithmetic, and memory
6 functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing,
7 storage, software, or communication facilities that are connected or related to that device in a system or
8 network.

9 (9) "Computer network" means the interconnection of communication systems between
10 computers or computers and remote terminals.

11 (10) "Computer program" means an instruction or statement or a series of instructions or
12 statements, in a form acceptable to a computer, that in actual or modified form permits the functioning
13 of a computer or computer system and causes it to perform specified functions.

14 (11) "Computer services" include but are not limited to computer time, data processing, and
15 storage functions.

16 (12) "Computer software" means a set of computer programs, procedures, and associated
17 documentation concerned with the operation of a computer system.

18 (13) "Computer system" means a set of related, connected, or unconnected devices, computer
19 software, or other related computer equipment.

20 (14) "Conduct" means an act or series of acts and the accompanying mental state.

21 (15) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo
22 contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by
23 a court of competent jurisdiction authorized to try the case without a jury.

24 (16) "Correctional institution" means a state prison, ~~county or city jail~~ detention center,
25 multijurisdictional detention center, private detention center, regional correctional facility, private
26 correctional facility, or other institution for the incarceration ~~or custody of persons of inmates~~ under
27 sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

28 (17) "Deception" means knowingly to:

29 (a) create or confirm in another an impression that is false and that the offender does not believe
30 to be true;

1 (b) fail to correct a false impression that the offender previously has created or confirmed;
2 (c) prevent another from acquiring information pertinent to the disposition of the property involved;
3 (d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or
4 other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or
5 is or is not a matter of official record; or

6 (e) promise performance that the offender does not intend to perform or knows will not be
7 performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

8 (18) "Defamatory matter" means anything that exposes a person or a group, class, or association
9 to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business
10 or occupation.

11 (19) "Deprive" means:

12 (a) to withhold property of another:

13 (i) permanently;

14 (ii) for such a period as to appropriate a portion of its value; or

15 (iii) with the purpose to restore it only upon payment of reward or other compensation; or

16 (b) to dispose of the property of another and use or deal with the property so as to make it
17 unlikely that the owner will recover it.

18 (20) "Deviate sexual relations" means sexual contact or sexual intercourse between two persons
19 of the same sex or any form of sexual intercourse with an animal.

20 (21) "Document" means, with respect to offenses involving the medicaid program, any application,
21 claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm,
22 or other form.

23 (22) "Felony" means an offense in which the sentence imposed upon conviction is death or
24 imprisonment in a state prison for a term exceeding 1 year.

25 (23) "Forcible felony" means a felony that involves the use or threat of physical force or violence
26 against any individual.

27 (24) A "frisk" is a search by an external patting of a person's clothing.

28 (25) "Government" includes a branch, subdivision, or agency of the government of the state or
29 a locality within it.

30 (26) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected,

1 including loss, disadvantage, or injury to a person or entity in whose welfare the affected person is
2 interested.

3 (27) A "house of prostitution" means a place where prostitution or promotion of prostitution is
4 regularly carried on by one or more persons under the control, management, or supervision of another.

5 (28) "Human being" means a person who has been born and is alive.

6 (29) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being
7 in the possession of a person subject to official detention.

8 (30) "Inmate" means a person who ~~engages in prostitution in or through the agency of a house~~
9 ~~of prostitution~~ is confined in a correctional institution.

10 (31) (a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32,
11 and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol
12 by volume.

13 (b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced
14 by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol
15 by volume.

16 (32) An "involuntary act" means an act that is:

17 (a) a reflex or convulsion;

18 (b) a bodily movement during unconsciousness or sleep;

19 (c) conduct during hypnosis or resulting from hypnotic suggestion; or

20 (d) a bodily movement that otherwise is not a product of the effort or determination of the actor,
21 either conscious or habitual.

22 (33) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a
23 court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an
24 action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend
25 as a prospective juror.

26 (34) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described
27 by a statute defining an offense when the person is aware of the person's own conduct or that the
28 circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute
29 defining an offense when the person is aware that it is highly probable that the result will be caused by
30 the person's conduct. When knowledge of the existence of a particular fact is an element of an offense,

1 knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such
2 as "knowing" or "with knowledge", have the same meaning.

3 (35) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter
4 6.

5 (36) "Medicaid agency" has the meaning in 53-6-155.

6 (37) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a
7 recipient under the medicaid program.

8 (38) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic,
9 or other form:

10 (i) that is used to claim specific services or items as payable or reimbursable under the medicaid
11 program; or

12 (ii) that states income, expense, or other information that is or may be used to determine
13 entitlement to or the rate of payment under the medicaid program.

14 (b) The term includes related documents submitted as a part of or in support of the claim.

15 (39) "Mentally defective" means that a person suffers from a mental disease or defect that renders
16 the person incapable of appreciating the nature of the person's own conduct.

17 (40) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating
18 or controlling the person's own conduct as a result of the influence of an intoxicating substance.

19 (41) "Misdemeanor" means an offense for which the sentence imposed upon conviction is
20 imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is
21 imprisonment in a state prison for a term of 1 year or less.

22 (42) "Negligently"--a person acts negligently with respect to a result or to a circumstance described
23 by a statute defining an offense when the person consciously disregards a risk that the result will occur
24 or that the circumstance exists or when the person disregards a risk of which the person should be aware
25 that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to
26 disregard it involves a gross deviation from the standard of conduct that a reasonable person would
27 observe in the actor's situation. "Gross deviation" means a deviation that is considerably greater than lack
28 of ordinary care. Relevant terms, such as "negligent" and "with negligence", have the same meaning.

29 (43) "Nolo contendere" means a plea in which the defendant does not contest the charge or
30 charges against the defendant and neither admits nor denies the charge or charges.

1 (44) "Obtain" means:

2 (a) in relation to property, to bring about a transfer of interest or possession, whether to the
3 offender or to another; and

4 (b) in relation to labor or services, to secure the performance of the labor or service.

5 (45) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the
6 sale, conveyance, or transfer of title to, interest in, or possession of property.

7 (46) "Occupied structure" means any building, vehicle, or other place suitable for human
8 occupancy or night lodging of persons or for carrying on business, whether or not a person is actually
9 present. Each unit of a building consisting of two or more units separately secured or occupied is a
10 separate occupied structure.

11 (47) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or
12 punished for a public offense.

13 (48) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is
14 authorized. Offenses are classified as felonies or misdemeanors.

15 (49) "Official detention" means imprisonment resulting from a conviction for an offense,
16 confinement for an offense, confinement of a person charged with an offense, detention by a peace officer
17 pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the
18 protection of the welfare of the person detained or for the protection of society. Official detention does
19 not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest
20 unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

21 (50) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a
22 judicial, an administrative, or another governmental agency or official authorized to take evidence under
23 oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony
24 or deposition in connection with the proceeding.

25 (51) "Other state" means a state or territory of the United States, the District of Columbia, and
26 the Commonwealth of Puerto Rico.

27 (52) "Owner" means a person other than the offender who has possession of or other interest in
28 the property involved, even though the interest or possession is unlawful, and without whose consent the
29 offender has no authority to exert control over the property.

30 (53) "Party official" means a person who holds an elective or appointive post in a political party

1 in the United States by virtue of which the person directs or conducts or participates in directing or
2 conducting party affairs at any level of responsibility.

3 (54) "Peace officer" means a person who by virtue of the person's office or public employment
4 is vested by law with a duty to maintain public order or to make arrests for offenses while acting within
5 the scope of the person's authority.

6 (55) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or
7 anything else the primary significance of which is economic gain.

8 (56) "Person" includes an individual, business association, partnership, corporation, government,
9 or other legal entity and an individual acting or purporting to act for or on behalf of a government or
10 subdivision of government.

11 (57) "Physically helpless" means that a person is unconscious or is otherwise physically unable to
12 communicate unwillingness to act.

13 (58) "Possession" is the knowing control of anything for a sufficient time to be able to terminate
14 control.

15 (59) "Premises" includes any type of structure or building and real property.

16 (60) "Property" means a tangible or intangible thing of value. Property includes but is not limited
17 to:

18 (a) real estate;

19 (b) money;

20 (c) commercial instruments;

21 (d) admission or transportation tickets;

22 (e) written instruments that represent or embody rights concerning anything of value, including
23 labor or services, or that are otherwise of value to the owner;

24 (f) things growing on, affixed to, or found on land and things that are part of or affixed to a
25 building;

26 (g) electricity, gas, and water;

27 (h) birds, animals, and fish that ordinarily are kept in a state of confinement;

28 (i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents,
29 blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models
30 thereof;

1 (j) other articles, materials, devices, substances, and whole or partial copies, descriptions,
2 photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret
3 scientific, technical, merchandising, production, or management information or a secret designed process,
4 procedure, formula, invention, or improvement; and

5 (k) electronic impulses, electronically processed or produced data or information, commercial
6 instruments, computer software or computer programs, in either machine- or human-readable form,
7 computer services, any other tangible or intangible item of value relating to a computer, computer system,
8 or computer network, and copies thereof.

9 (61) "Property of another" means real or personal property in which a person other than the
10 offender has an interest that the offender has no authority to defeat or impair, even though the offender
11 may have an interest in the property.

12 (62) "Public place" means a place to which the public or a substantial group has access.

13 (63) "Public servant" means an officer or employee of government, including but not limited to
14 legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator,
15 executor, guardian, or court-appointed fiduciary. The term does not include witnesses. The term "public
16 servant" includes one who has been elected or designated to become a public servant.

17 (64) "Purposely"--a person acts purposely with respect to a result or to conduct described by a
18 statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that
19 result. When a particular purpose is an element of an offense, the element is established although the
20 purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law
21 defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same
22 meaning.

23 (65) (a) "Serious bodily injury" means bodily injury that:

24 (i) creates a substantial risk of death;

25 (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or
26 process of a bodily member or organ; or

27 (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement
28 or protracted loss or impairment of the function or process of a bodily member or organ.

29 (b) The term includes serious mental illness or impairment.

30 (66) "Sexual contact" means touching of the sexual or other intimate parts of the person of

1 another, directly or through clothing, in order to knowingly or purposely:

2 (a) cause bodily injury to or humiliate, harass, or degrade another; or

3 (b) arouse or gratify the sexual response or desire of either party.

4 (67) (a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the
5 penis of another person, penetration of the vulva or anus of one person by a body member of another
6 person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated
7 by another person to knowingly or purposely:

8 (i) cause bodily injury or humiliate, harass, or degrade; or

9 (ii) arouse or gratify the sexual response or desire of either party.

10 (b) For purposes of subsection (67)(a), any penetration, however slight, is sufficient.

11 (68) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise
12 another to commit an offense.

13 (69) "State" or "this state" means the state of Montana, all the land and water in respect to which
14 the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and
15 water.

16 (70) "Statute" means an act of the legislature of this state.

17 (71) "Stolen property" means property over which control has been obtained by theft.

18 (72) A "stop" is the temporary detention of a person that results when a peace officer orders the
19 person to remain in the peace officer's presence.

20 (73) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted
21 alterations in its existing condition, or deposit refuse upon it.

22 (74) "Telephone" means any type of telephone, including but not limited to a corded, uncorded,
23 cellular, or satellite telephone.

24 (75) "Threat" means a menace, however communicated, to:

25 (a) inflict physical harm on the person threatened or any other person or on property;

26 (b) subject any person to physical confinement or restraint;

27 (c) commit a criminal offense;

28 (d) accuse a person of a criminal offense;

29 (e) expose a person to hatred, contempt, or ridicule;

30 (f) harm the credit or business repute of a person;

1 (g) reveal information sought to be concealed by the person threatened;

2 (h) take action as an official against anyone or anything, withhold official action, or cause the
3 action or withholding;

4 (i) bring about or continue a strike, boycott, or other similar collective action if the person making
5 the threat demands or receives property that is not for the benefit of groups that the person purports to
6 represent; or

7 (j) testify or provide information or withhold testimony or information with respect to another's
8 legal claim or defense.

9 (76) (a) "Value" means the market value of the property at the time and place of the crime or, if
10 the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within
11 a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the
12 value must be determined as follows:

13 (i) The value of an instrument constituting an evidence of debt, such as a check, draft, or
14 promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of
15 the indebtedness less any portion of the indebtedness that has been satisfied.

16 (ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any
17 valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of
18 the instrument might reasonably suffer by virtue of the loss of the instrument.

19 (iii) The value of electronic impulses, electronically produced data or information, computer
20 software or programs, or any other tangible or intangible item relating to a computer, computer system,
21 or computer network is considered to be the amount of economic loss that the owner of the item might
22 reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss
23 includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition
24 of the item.

25 (b) When it cannot be determined if the value of the property is more or less than \$1,000 by the
26 standards set forth in subsection (76)(a), its value is considered to be an amount less than \$1,000.

27 (c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
28 whether from the same person or several persons, may be aggregated in determining the value of the
29 property.

30 (77) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment,

1 with provision for transport of an operator.

2 (78) "Weapon" means an instrument, article, or substance that, regardless of its primary function,
3 is readily capable of being used to produce death or serious bodily injury.

4 (79) "Witness" means a person whose testimony is desired in an official proceeding, in any
5 investigation by a grand jury, or in a criminal action, prosecution, or proceeding."
6

7 **SECTION 2.** SECTION 45-5-601, MCA, IS AMENDED TO READ:

8 **"45-5-601. Prostitution.** (1) A person commits the offense of prostitution if ~~such~~ the person
9 engages in or agrees or offers to engage in sexual intercourse with another person for compensation,
10 whether such compensation is received or to be received or paid or to be paid.

11 (2) (a) ~~A person prostitute~~ convicted of prostitution shall be fined an amount not to exceed \$500
12 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

13 (b) A prostitute's client who is convicted of prostitution shall for the first offense be fined an
14 amount not to exceed \$1,000 or be imprisoned for a term not to exceed 1 year, or both, and for a second
15 or subsequent offense shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not
16 to exceed 5 years, or both."

17

18 **Section 3.** Section 45-5-602, MCA, is amended to read:

19 **"45-5-602. Promoting prostitution.** (1) A person commits the offense of promoting prostitution
20 if ~~he~~ the person purposely or knowingly commits any of the following acts:

21 (a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association
22 with others, a house of prostitution or a prostitution business;

23 (b) procures an ~~inmate~~ individual for a house of prostitution or a place in a house of prostitution
24 for ~~one who would be an inmate~~ an individual;

25 (c) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

26 (d) ~~solicits a person another to patronize a prostitute;~~

27 (D) SOLICITS CLIENTS FOR ANOTHER PERSON WHO IS A PROSTITUTE;

28 (e) procures a prostitute for a patron;

29 (f) transports ~~a person~~ an individual into or within this state with the purpose to promote that
30 ~~person's~~ individual's engaging in prostitution or procures or pays for transportation with that purpose;

1 (g) leases or otherwise permits a place controlled by the offender, alone or in association with
 2 others, to be regularly used for prostitution or for the procurement of prostitution or fails to make
 3 reasonable effort to abate ~~such that~~ use by ejecting the tenant, notifying law enforcement authorities, or
 4 using other legally available means; or

5 (h) lives in whole or in part upon the earnings of ~~a person~~ an individual engaging in prostitution,
 6 unless the person is the prostitute's minor child or other legal dependent incapable of self-support.

7 (2) A person convicted of promoting prostitution shall be fined an amount not to exceed ~~\$500~~
 8 \$50,000 or be imprisoned in ~~the county jail~~ a state prison for ~~any a~~ term not to exceed ~~6 months~~ 20 10
 9 years, or both."

10

11 **Section 4.** Section 45-5-603, MCA, is amended to read:

12 **"45-5-603. Aggravated promotion of prostitution.** (1) A person commits the offense of aggravated
 13 promotion of prostitution if ~~he~~ the person purposely or knowingly commits any of the following acts:

14 (a) compels another to engage in or promote prostitution;

15 (b) promotes prostitution of a child under the age of 18 years, whether or not ~~he~~ the person is
 16 aware of the child's age;

17 (c) promotes the prostitution of one's spouse, child, ward, or any person for whose care,
 18 protection, or support ~~he~~ the person is responsible.

19 (2) ~~(a) A~~ Except as provided in subsection (2)(b), a person convicted of aggravated promotion of
 20 prostitution shall be ~~imprisoned~~ punished by life imprisonment, by imprisonment in the a state prison for
 21 ~~any a~~ term not to exceed ~~20 100 20~~ years, ~~or be fined by a fine in~~ an amount not to exceed \$50,000,
 22 or both.

23 (b) Except as provided in 46-18-219 and 46-18-222, a person convicted of aggravated promotion
 24 of prostitution of a child, who at the time of the offense is under 16 18 years of age, shall be punished
 25 by life imprisonment, by imprisonment in a state prison for a term of not less than 4 years or more than
 26 100 years, or by a fine in an amount not to exceed \$100,000, or both."

27

28 **Section 5.** Section 46-18-205, MCA, is amended to read:

29 **"46-18-205. Mandatory minimum sentences -- restrictions on deferral or suspension.** (1) If the
 30 victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of

1 imprisonment imposed under the following sections may not be deferred or suspended and the provisions
2 of 46-18-222 do not apply to the first 30 days of the imprisonment:

3 (a) 45-5-503, sexual intercourse without consent;

4 (b) 45-5-504, indecent exposure;

5 (c) 45-5-505, deviate sexual conduct; or

6 (d) 45-5-507, incest.

7 (2) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years
8 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:

9 (a) 45-5-103(4), mitigated deliberate homicide;

10 (b) 45-5-202, aggravated assault;

11 (c) 45-5-302(2), kidnapping;

12 (d) 45-5-303(2), aggravated kidnapping;

13 (e) 45-5-401(2), robbery;

14 (f) 45-5-502(3), sexual assault;

15 (g) 45-5-503(2) and (3), sexual intercourse without consent;

16 (h) 45-5-603, aggravated promotion of prostitution;

17 ~~(h)(i)~~ 45-9-101(2), (3), and (5)(d), criminal distribution of dangerous drugs;

18 ~~(h)(j)~~ 45-9-102(4), criminal possession of dangerous drugs; and

19 ~~(h)(k)~~ 45-9-103(2), criminal possession with intent to distribute dangerous drugs.

20 (3) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a
21 sentence of imprisonment imposed under 45-5-102, deliberate homicide, may not be deferred or
22 suspended."

23

24 **Section 6.** Section 46-18-219, MCA, is amended to read:

25 **"46-18-219. Life sentence without possibility of release.** (1) (a) Except as provided in subsection
26 (3), if an offender convicted of one of the following offenses was previously convicted of one of the
27 following offenses or of an offense under the laws of another state or of the United States that, if
28 committed in this state, would be one of the following offenses, the offender must be sentenced to life
29 in prison, unless the death penalty is applicable and imposed:

30 (i) 45-5-102, deliberate homicide;

1 (ii) 45-5-303, aggravated kidnapping;

2 (iii) 45-5-503, sexual intercourse without consent;

3 (iv) 45-5-625, sexual abuse of children; or

4 (v) 45-5-627, except subsection (1)(b), ritual abuse of a minor.

5 (b) Except as provided in subsection (3), if an offender convicted of one of the following offenses
6 was previously convicted of two of the following offenses, two of any combination of the offenses listed
7 in subsection (1)(a) or the following offenses, or two of any offenses under the laws of another state or
8 of the United States that, if committed in this state, would be one of the offenses listed in subsection
9 (1)(a) or this subsection, the offender must be sentenced to life in prison, unless the death penalty is
10 applicable and imposed:

11 (i) 45-5-103, mitigated deliberate homicide;

12 (ii) 45-5-202, aggravated assault;

13 (iii) 45-5-302, kidnapping; ~~or~~

14 (iv) 45-5-401, robbery; or

15 (v) 45-5-603, aggravated promotion of prostitution.

16 (2) Except as provided in 46-23-210 and subsection (3) of this section, an offender sentenced
17 under subsection (1):

18 (a) shall serve the entire sentence;

19 (b) shall serve the sentence in prison;

20 (c) may not for any reason, except a medical reason, be transferred for any length of time to
21 another type of institution, facility, or program;

22 (d) may not be paroled; and

23 (e) may not be given time off for good behavior or otherwise be given an early release for any
24 reason.

25 (3) If the offender was previously sentenced for either of two or three offenses listed in subsection
26 (1), pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2)
27 of this section do not apply to the offender's present sentence.

28 (4) The imposition or execution of the sentences prescribed by this section may not be deferred
29 or suspended. In the event of a conflict between this section and any provision of 46-18-201 or
30 46-18-205, this section prevails.

