

HOUSE BILL NO. 203

INTRODUCED BY M. MENAHAN

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE ADMISSION INTO EVIDENCE, IN CERTAIN CRIMINAL AND CIVIL CASES, OF EVIDENCE OF OTHER SEXUAL ASSAULT OR CHILD MOLESTATION OFFENSES INVOLVING THE SAME INDIVIDUAL."

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

NEW SECTION. Section 1. Admissibility of evidence of similar crimes in sexual assault prosecutions. (1) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense of sexual assault in any state, as defined in [section 2], is admissible into evidence and may be considered for its bearing on any matter to which it is relevant.

(2) If the prosecution intends to offer evidence pursuant to this section, the prosecution shall disclose the evidence to the defendant. If the prosecution intends to offer a statement of a witness, the prosecution shall disclose that statement or a summary of the substance of any statement that is expected to be offered at the time of the omnibus hearing held pursuant to 46-13-110 or at a later time that the court may for good cause allow.

(3) This section does not prohibit or limit the admission or consideration of evidence under any other statute or rule.

(4) As used in this section, "offense of sexual assault" means an offense that may be prosecuted:

(a) pursuant to 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, or 45-5-627;

(b) under the law of any other state, a territory or possession of the United States, an Indian reservation, the District of Columbia, or any area under the jurisdiction of the United States and that involved:

(i) conduct prohibited by Title 18, chapter 109A, of the United States Code;

(ii) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

(iii) contact, without consent, between the genitals or anus of the defendant and any part of another person's body; or

(iv) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

1 (c) as an attempt, accountability, or conspiracy to engage in conduct described in subsection (4)(a) or
 2 (4)(b).

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 4 **NEW SECTION. Section 2. Admissibility of evidence of similar crimes in child molestation cases.**

5 (1) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the
 6 defendant's commission of another offense of child molestation in any state is admissible and may be considered
 7 for its bearing on any matter to which it is relevant.

8 (2) If the prosecution intends to offer evidence pursuant to this section, the prosecution shall disclose
 9 the evidence to the defendant. If the prosecution intends to offer a statement of a witness, the prosecution shall
 10 disclose that statement or a summary of the substance of any statement that is expected to be offered at the time
 11 of the omnibus hearing held pursuant to 46-13-110 or at a later time that the court may for good cause allow.

12 (3) This section does not prohibit or limit the admission or consideration of evidence under any other
 13 statute or rule.

14 (4) As used in this section, the following definitions apply:

15 (a) "Child" means a victim of an offense who is under 16 years of age if the offender was, at the time of
 16 the offense, 3 or more years older than the victim.

17 (b) "Offense of child molestation" means an offense that may be prosecuted as provided in [section 1(4)]
 18 and that was committed in relation to a child or conduct that may be prosecuted pursuant to Title 18, chapter 110,
 19 of the United States Code.

20 (c) "State" means this state, any other state, a territory or possession of the United States, an Indian
 21 reservation, the District of Columbia, or any other area under the jurisdiction of the United States.

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23 **NEW SECTION. Section 3. Admissibility of evidence of similar acts in civil cases of sexual**
 24 **assault or child molestation cases.** (1) In a civil action in which a claim for damages or other relief is predicated
 25 on a party's alleged commission of conduct constituting the offense of sexual assault as defined in [section 1] or
 26 the offense of child molestation as defined in [section 2], evidence of that party's commission of another offense
 27 of sexual assault or another offense of child molestation, in any state, is admissible into evidence and may be
 28 considered for its bearing on any matter to which it is relevant.

29 (2) A party intending to offer evidence pursuant to this section shall disclose the evidence to the opposing
 30 party. If a party intends to offer a statement of a witness, the party intending to offer the statement shall disclose

1 the statement or a summary of the substance of the statement that is expected to be offered at least 15 days
2 before the scheduled date of trial or at a later time that the court may for good cause allow.

3 (3) This section does not prohibit or limit the admission or consideration of evidence under any other
4 statute or rule.

5 (4) As used in this section, "state" means this state, any other state, a territory or possession of the
6 United States, an Indian reservation, the District of Columbia, or any other area under the jurisdiction of the United
7 States.

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9 **NEW SECTION. Section 4. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified
10 as an integral part of Title 46, chapter 15, part 4, and the provisions of Title 46, chapter 15, part 4, apply to
11 [sections 1 and 2].

12 (2) [Section 3] is intended to be codified as an integral part of Title 26, chapter 1, and the provisions of
13 Title 26, chapter 1, apply to [section 3].

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15 **NEW SECTION. Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
17 remains in effect in all valid applications that are severable from the invalid applications.

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