

HOUSE BILL NO. 402

INTRODUCED BY PARKER, BALLANTYNE, BECKER, BERGREN, BRANAE, CARNEY, COCCHIARELLA, COONEY, DICKENSON, DOWELL, EVERETT, FACEY, FRANKLIN, GALLUS, GALVIN-HALCRO, GIBSON, GOLIE, HANSEN, HARRIS, JACOBSON, JENT, KEANE, LANGE, LASLOVICH, LAWSON, LEHMAN, LENHART, MAEDJE, MALCOLM, MANGAN, MCKENNEY, MUSGROVE, NEWMAN, A. OLSON, RASER, RIPLEY, B. RYAN, SCHMIDT, SHEA, SQUIRES, STOKER, TESTER, B. THOMAS, WANZENRIED, WEISS, WILSON

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MAXIMUM IMPRISONMENT PENALTIES AND REQUIRING OFFENDER REGISTRATION FOR THE CRIME OF OPERATING AN UNLAWFUL CLANDESTINE ILLEGAL DRUG LABORATORY; AND AMENDING ~~SECTION~~ SECTIONS 45-9-132 AND 46-23-502, MCA."

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

Section 1. Section 45-9-132, MCA, is amended to read:

"45-9-132. Operation of unlawful clandestine laboratory -- penalties. (1) A person commits the offense of operation of an unlawful clandestine laboratory if the person purposely or knowingly engages in:

(a) the procurement, possession, or use of chemicals, precursors to dangerous drugs, supplies, equipment, or a laboratory location for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;

(b) the transportation of or arranging for the transportation of chemicals, precursors to dangerous drugs, supplies, or equipment for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110; or

(c) the setting up of equipment or supplies in preparation for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110.

(2) Except as provided in subsections (3) and (4), a person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$25,000, be imprisoned in a state prison for a term not to exceed ~~20~~ 40 years, or both.

(3) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$50,000, be imprisoned in a state prison for a term not to exceed ~~25~~ 50 years, or both, if 46-1-401 is complied with and the operation of an unlawful clandestine laboratory or any phase of the operation:

- (a) created a substantial risk of death of or serious bodily injury to another;
- (b) took place within 500 feet of a residence, business, church, or school; or
- (c) took place in the presence of a person less than 18 years of age.

(4) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$100,000, be imprisoned in a state prison for a term not to exceed ~~40~~ 50 years, or both, if 46-1-401 is complied with and the operation of an unlawful clandestine laboratory or any phase of the operation involved the use of a firearm or booby trap."

SECTION 2. SECTION 46-23-502, MCA, IS AMENDED TO READ:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

- (1) "Department" means the department of corrections provided for in 2-15-2301.
- (2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.
- (3) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.
- (4) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.
- (5) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.
- (6) "Sexual offense" means:
 - (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302, 45-5-303, 45-5-502(3), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim), 45-5-603(1)(b), or 45-5-625; or
 - (b) any violation of a law of another state or the federal government reasonably equivalent to a violation listed in subsection (6)(a).
- (7) "Sexual or violent offender" means a person who has been convicted of a sexual or violent offense.
- (8) "Sexually violent predator" means a person who has been convicted of a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory

sexual offenses.

(9) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-401, or 45-6-103, or 45-9-132; or

(b) any violation of a law of another state or the federal government reasonably equivalent to a violation listed in subsection (9)(a)."

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