

SENATE BILL NO. 160

INTRODUCED BY TROPILA, ARNTZEN, T. BROWN, HOLLENBAUGH, MACDONALD, NOONAN, O'HARA,
THOMAS, VAN DYK, WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF CRIMINAL CHILD
ENDANGERMENT; PROVIDING THAT A PERSON COMMITS THE OFFENSE OF CRIMINAL CHILD
ENDANGERMENT IF THE PERSON PURPOSELY, KNOWINGLY, OR NEGLIGENTLY CAUSES SUBSTANTIAL
RISK OF DEATH OR SERIOUS BODILY INJURY TO A CHILD UNDER 14 YEARS OF AGE; PROVIDING
PENALTIES; AMENDING SECTION 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Criminal child endangerment. (1) A person commits the offense of
criminal child endangerment if the person purposely, knowingly, or negligently causes substantial risk of death
or serious bodily injury to a child under 14 years of age by:

(a) failing to ~~obtain~~ SEEK REASONABLE medical care for a child suffering from an apparent ACUTE
life-threatening condition;

(b) placing a child in the ~~care~~ PHYSICAL CUSTODY of another who the person knows has previously
PURPOSELY OR KNOWINGLY caused bodily injury to ~~the~~ A child;

(c) placing a child in the ~~care~~ PHYSICAL CUSTODY of another who the person knows has previously
committed an offense against the child under 45-5-502 or 45-5-503;

(d) manufacturing or distributing dangerous drugs in a place where a child is present;

(e) operating a motor vehicle under the influence of alcohol or dangerous drugs IN VIOLATION OF 61-8-401,
61-8-406, 61-8-410, OR 61-8-465 with a child in the vehicle; or

(f) failing to ATTEMPT TO provide proper nutrition for a child, resulting in a medical diagnosis of
NONORGANIC failure to thrive.

(2) A PERSON MAY NOT BE CHARGED UNDER SUBSECTION (1)(B) OR (1)(C) IF THE PERSON PLACED THE CHILD
IN THE OTHER PERSON'S CUSTODY PURSUANT TO A COURT ORDER.

~~(2)~~(3) A person convicted of the offense of criminal child endangerment shall be fined an amount not to

1 exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

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3 **Section 2.** Section 46-23-502, MCA, is amended to read:

4 **"46-23-502. Definitions.** As used in 46-18-255 and this part, the following definitions apply:

5 (1) "Department" means the department of corrections provided for in 2-15-2301.

6 (2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional,
7 or volitional capacity of a person in a manner that predisposes the person to the commission of one or more
8 sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

9 (3) "Municipality" means an entity that has incorporated as a city or town.

10 (4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic
11 and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

12 (5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person
13 with whom a relationship has been established or furthered for the primary purpose of victimization.

14 (6) "Registration agency" means:

15 (a) if the offender resides in a municipality, the police department of that municipality; or

16 (b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which
17 the offender resides.

18 (7) (a) "Residence" means the location at which a person regularly resides, regardless of the number
19 of days or nights spent at that location, that can be located by a street address, including a house, apartment
20 building, motel, hotel, or recreational or other vehicle.

21 (b) The term does not mean a homeless shelter.

22 (8) "Sexual offender evaluator" means a person qualified under rules established by the department to
23 conduct sexual offender and sexually violent predator evaluations.

24 (9) "Sexual offense" means:

25 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim
26 is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18
27 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and
28 the offender is not a parent of the victim), 45-5-502(3) (if the victim is less than 16 years of age and the offender
29 is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the
30 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

1 offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender
 2 is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(c), or
 3 45-5-625; or

4 (b) any violation of a law of another state, a tribal government, or the federal government that is
 5 reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register
 6 as a sexual offender after an adjudication or conviction.

7 (10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to
 8 have committed or been adjudicated for a sexual or violent offense.

9 (11) "Sexually violent predator" means a person who:

10 (a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual
 11 offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to
 12 engage in predatory sexual offenses; or

13 (b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender
 14 is 18 years of age or older.

15 (12) "Transient" means an offender who has no residence.

16 (13) "Violent offense" means:

17 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,
 18 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, 45-5-302
 19 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, [section 1], 45-6-103, or 45-9-132;
 20 or

21 (b) any violation of a law of another state, a tribal government, or the federal government reasonably
 22 equivalent to a violation listed in subsection (13)(a)."

23
 24 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
 25 integral part of Title 45, chapter 5, part 6, and the provisions of Title 45, chapter 5, part 6, apply to [section 1].

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 27 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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 29 **NEW SECTION. Section 5. Applicability.** [This act] applies to offenses committed on or after [the
 30 effective date of this act].

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