

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.

2 (4) FOR PURPOSES OF THIS SECTION, "NONORGANIC FAILURE TO THRIVE" MEANS INADEQUATE PHYSICAL GROWTH
 3 THAT IS A RESULT OF INSUFFICIENT NUTRITION AND IS NOT SECONDARY TO A DIAGNOSED MEDICAL CONDITION.

4

5 ~~Section 2.~~ Section 46-23-502, MCA, is amended to read:

6 ~~"46-23-502. Definitions.~~ As used in 46-18-255 and this part, the following definitions apply:

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

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

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

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

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

16 ~~(6) "Registration agency" means:~~

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

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

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

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

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

26 ~~(9) "Sexual offense" means:~~

27 ~~(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim~~
 28 ~~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~~
 29 ~~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~~
 30 ~~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~~

1 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
 2 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
 3 offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender
 4 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
 5 45-5-625; or

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

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

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

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

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

17 ~~_____ (12) "Transient" means an offender who has no residence.~~

18 ~~_____ (13) "Violent offense" means:~~

19 ~~_____ (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,~~
 20 ~~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~~
 21 ~~(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;~~
 22 ~~or~~

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

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26 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
 27 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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29 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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