

SEX OFFENDERS: SENTENCING, REGISTRATION, AND TREATMENT

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Sexual offenses are generally described in [Title 45, chapter 5, part 5, MCA](#). Certain crimes related to children are contained in [Title 45, chapter 5, part 6, MCA](#). Many sex crimes are also subject to mandatory minimum sentences. Those mandatory minimums are described in section [48-18-205, MCA](#). Courts are also required to designate a convicted sexual offender with a tier level based on the offender's risk to reoffend. Required sex offender treatment is described in section [46-18-207, MCA](#).

Certain sexual and violent offenders are required by law to register their location with county law enforcement. The statutes governing the state's sexual and violent offender registry are contained in [Title 46, chapter 23, part 5, MCA](#). The part also sets out the requirements for psychosexual evaluations and how sex offender tier designations are made.

The Department of Corrections has adopted [administrative rules](#) relating to sex offender evaluation and treatment provider guidelines.

Legislative Services Division Materials:

Other Materials:

[Sexual and Violent Offender Registry](#), Montana Department of Justice

[Sex offender information](#) – National Conference of State Legislators (NCSL)

[Sex offender enactments database](#) – NCSL

[Chemical Dependency and Sex Offender Treatment Programs](#), Nov. 2007, Performance Audit #07P-08, Legislative Audit Division.

[Sex Offender Management Policy in the States: Strengthening Policy and Practice](#), Council of State Governments, Winter 2010.

[Sex Offender Treatment information](#), Council of State Governments

Introduced Legislation

2017

[House Bill No. 133](#) -- Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS RELATED TO SENTENCING; REVISING CERTAIN DEFINITIONS; REVISING CRIMINAL HISTORY RECORD INFORMATION LAWS; EXPANDING THE TYPES OF OFFENSES FOR WHICH FINGERPRINTS MUST BE SENT TO THE STATE REPOSITORY; REVISING WHEN CERTAIN IDENTIFICATION INFORMATION MUST BE RETURNED TO AN INDIVIDUAL; CLARIFYING THE ELEMENTS NECESSARY TO SUPPORT A CRIMINAL ENDANGERMENT CHARGE; CLARIFYING THAT THE YOUTH COURT HAS JURISDICTION OF CHARGES OF ASSAULT WITH A BODILY FLUID WHEN COMMITTED BY A MINOR; **LIMITING EXCEPTIONS TO MANDATORY MINIMUMS FOR CERTAIN SEXUAL OFFENSES WHEN VICTIM IS 12 YEARS OF AGE OR YOUNGER; REVISING THE MANDATORY MINIMUMS FOR CERTAIN SEXUAL OFFENSES WHEN VICTIM IS 12 YEARS OF AGE OR YOUNGER**; CREATING A TIERED SENTENCING STRUCTURE FOR THEFT-BASED CRIMES; REDUCING PENALTIES FOR CERTAIN MISDEMEANORS; REDUCING PENALTIES FOR MOST DRUG OFFENSES; REVISING THE PERSISTENT FELONY OFFENDER DESIGNATION; REVISING THE REQUIREMENT FOR A CHEMICAL DEPENDENCY EDUCATION COURSE; REVISING CERTAIN DRIVING OFFENSES; REVISING DUI PENALTIES; AMENDING SECTIONS 41-5-206, 44-5-202, 45-2-101, 45-5-207, 45-5-214, 45-5-503, 45-5-507, 45-5-625, 45-6-301, 45-6-309, 45-6-316, 45-6-317, 45-6-325, 45-6-332, 45-8-101, 45-8-102, 45-8-111, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 46-1-202, 46-18-201, 46-18-204, 46-18-205, 46-18-222, 46-18-231, 46-18-502, 53-1-203, 61-5-102, 61-5-208, 61-5-212, 61-6-302, 61-6-304, 61-8-407, 61-8-422, 61-8-731, AND 61-8-732, MCA; REPEALING SECTIONS 45-9-208, 45-10-108, AND 46-18-501, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill No. 247](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO SEXUAL ABUSE OF CHILDREN; CLARIFYING THAT COERCING A CHILD IN PERSON TO VIEW SEXUALLY EXPLICIT MATERIAL OR ACTS CONSTITUTES SEXUAL ABUSE OF CHILDREN; AMENDING SECTION 45-5-625, MCA; AND PROVIDING AN APPLICABILITY DATE.

[House Bill No. 369](#) -- (H) Died in Standing Committee -- AN ACT ESTABLISHING REQUIREMENTS FOR THE COMMUNITY PLACEMENT OF DEVELOPMENTALLY DISABLED INDIVIDUALS WHO ARE REGISTERED SEXUAL AND VIOLENT OFFENDERS; AMENDING SECTION 53-20-301, MCA; AND PROVIDING AN EFFECTIVE DATE.

[Senate Bill No. 17](#) -- Chapter Number Assigned -- AN ACT PROVIDING THAT JUVENILE OFFENDERS WITH NO HISTORY OF SEXUAL OFFENSES OR FOR WHOM REGISTRATION IS NOT NECESSARY TO PROTECT THE PUBLIC DO NOT HAVE TO REGISTER AS SEXUAL OFFENDERS; AMENDING SECTION 41-5-1513, MCA; AND PROVIDING AN APPLICABILITY DATE.

[Senate Bill No. 22](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP WHEN A CHILD IS BORN AS THE RESULT OF SEXUAL

INTERCOURSE WITHOUT CONSENT OR SEXUAL ASSAULT; PROVIDING A PROCESS TO TERMINATE THE LEGAL RELATIONSHIP; PROVIDING THAT THE OBLIGATION TO PAY CHILD SUPPORT IS NOT RELIEVED BY THE TERMINATION OF PARENTAL RIGHTS; AND AMENDING SECTION 41-3-607, MCA.

[Senate Bill No. 26](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS REGARDING SEXUAL INTERCOURSE WITHOUT CONSENT; PROVIDING A MAXIMUM PENALTY WHEN THE OFFENDER IS 18 YEARS OF AGE OR YOUNGER AND THE VICTIM IS 14 YEARS OF AGE OR OLDER, IT IS A FIRST OFFENSE AND NO FORCE WAS USED; PROVIDING THAT AN 18-YEAR-OLD WHO IS CONVICTED OF SEXUAL INTERCOURSE WITHOUT CONSENT REGARDING A VICTIM WHO IS AGE 14 OR OLDER DOES NOT HAVE TO REGISTER AS A SEX OFFENDER AS LONG AS NO FORCE WAS USED; AMENDING SECTIONS 45-5-503, 46-18-231, AND 46-23-502, MCA; AND PROVIDING AN APPLICABILITY DATE.

[Senate Bill No. 29](#) -- Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS RELATED TO SEXUAL CRIMES; PROVIDING FOR THE CRIME OF AGGRAVATED SEXUAL ASSAULT; REMOVING THE REQUIREMENT OF FORCE FROM THE DEFINITION OF "CONSENT"; REVISING PENALTIES FOR SEXUAL INTERCOURSE WITHOUT CONSENT; AMENDING SECTIONS 45-2-101, 45-5-501, 45-5-503, 46-18-219, 46-18-222, AND 46-23-502, MCA; AND PROVIDING AN APPLICABILITY DATE.

2015

[House Bill No. 88](#) -- Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS REGARDING SEX OFFENDER REGISTRATION; REQUIRING THE OFFENDER TO PROVIDE E-MAIL ADDRESSES AND SOCIAL MEDIA SCREEN NAMES WHEN REGISTERING; REQUIRING OFFENDERS CONVICTED IN OTHER JURISDICTIONS THAT DO NOT DO A RISK LEVEL ASSESSMENT TO UNDERGO A PSYCHOSEXUAL EVALUATION; AND AMENDING SECTIONS 46-18-111, 46-18-222, 46-23-502, 46-23-504, AND 46-23-509, MCA.

[House Bill No. 186](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO PROTECTING VICTIMS OF SEXUAL OFFENSES; REQUIRING A SENTENCING JUDGE AND THE STATE BOARD OF PARDONS AND PAROLE TO ORDER AN OFFENDER TO REFRAIN FROM CONTACTING A VICTIM OF A SEXUAL OFFENSE OR AN IMMEDIATE FAMILY MEMBER OF THE VICTIM IF REQUESTED BY THE VICTIM OR IMMEDIATE FAMILY MEMBER; REQUIRING THE DEPARTMENT OF CORRECTIONS TO REQUEST A SENTENCING JUDGE TO ADD A CONDITION OF PROBATION THAT ORDERS THE OFFENDER TO REFRAIN FROM CONTACTING A VICTIM OF A SEXUAL OFFENSE OR AN IMMEDIATE FAMILY MEMBER OF THE VICTIM IF REQUESTED BY THE VICTIM OR IMMEDIATE FAMILY MEMBER; REVISING VICTIM NOTIFICATION REQUIREMENTS TO INFORM A VICTIM OF A SEXUAL OFFENSE OF THE VICTIM'S RIGHT TO REQUEST THAT AN OFFENDER BE ORDERED TO REFRAIN FROM CONTACTING THE VICTIM; AND AMENDING SECTIONS 46-18-255, 46-23-215, 46-23-1011, 46-24-203, AND 46-24-212, MCA.

[House Bill No. 219](#) -- Chapter Number Assigned -- AN ACT MAKING IT A FELONY OFFENSE FOR CERTAIN HIGH-RISK SEXUAL OFFENDERS TO RESIDE OR WORK WITHIN CERTAIN GEOGRAPHICALLY RESTRICTED AREAS; PROVIDING EXCEPTIONS; PROVIDING A PENALTY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 46-18-255 AND 46-23-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

[House Bill No. 482](#) -- Chapter Number Assigned -- AN ACT PROVIDING THAT AN OFFENDER WHO IS A PROFESSIONAL LICENSED BY THE STATE AND COMMITS THE OFFENSE OF SEXUAL ASSAULT

MUST REGISTER AS A SEXUAL OFFENDER ON THE SEXUAL AND VIOLENT OFFENDER REGISTRY IN CERTAIN CASES; REVISING DEFINITIONS; AMENDING SECTION 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill No. 535](#) -- (H) Missed Deadline for General Bill Transmittal -- AN ACT REVISING MANDATORY MINIMUM PENALTIES FOR CERTAIN OFFENSES INVOLVING UNLAWFUL SEXUAL CONDUCT; AMENDING SECTION 46-18-205, MCA; AND PROVIDING AN APPLICABILITY DATE.

[Senate Joint Resolution No. 24](#) -- (S) Filed with Secretary of State -- A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF SEXUAL ASSAULT IN MONTANA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 65TH LEGISLATURE.

2013

[House Bill No. 335](#) -- Chapter Number Assigned -- AN ACT PROVIDING AUTHORITY TO DISTRICT COURTS TO DESIGNATE SEX OFFENDERS AS LEVEL 1, 2, OR 3 WHEN THOSE SEX OFFENDERS DO NOT HAVE A DESIGNATION; AMENDING SECTION 46-23-509, MCA; AND PROVIDING AN APPLICABILITY DATE.

[House Bill No. 433](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO REGISTRATION OF SEXUAL OR VIOLENT OFFENDERS; PROVIDING THAT OFFENDERS MUST REGISTER WHEN THEY ARE LOCATED IN A COUNTY THAT IS NOT THEIR COUNTY OF RESIDENCE FOR MORE THAN 10 DAYS; REQUIRING OFFENDERS TO REGISTER IN ANY COUNTY WHERE THEY REMAIN FOR 24 HOURS UNTIL THEY RETURN TO THEIR COUNTY OF RESIDENCE; AMENDING SECTION 46-23-505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[Senate Bill No. 107](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATING TO DEVIATE SEXUAL CONDUCT; REVISING THE DEFINITION OF "DEVIATE SEXUAL CONDUCT"; AND AMENDING SECTIONS 27-2-216, 41-3-102, 45-1-205, 45-2-101, 45-5-505, 46-1-502, AND 52-3-803, MCA.

[Senate Bill No. 213](#) -- Chapter Number Assigned -- AN ACT REQUIRING CERTAIN SEX OFFENDERS TO PROVIDE A DNA SAMPLE FOR ENTRY INTO THE MONTANA DNA DATABASE; AND AMENDING SECTIONS 44-6-103 AND 46-23-504, MCA.

[Senate Bill No. 326](#) -- Chapter Number Assigned -- AN ACT PROVIDING THAT A PERSON CONVICTED OF SEXUAL INTERCOURSE WITHOUT CONSENT WHO IS THE BIOLOGICAL PARENT OF A CHILD RESULTING FROM THE ACT FORFEITS ALL PARENTAL RIGHTS UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 45-5-503, MCA.

2011

[House Bill No. 109](#) -- (H) Died in Standing Committee -- AN ACT REVISING SEXUAL OFFENDER REGISTRATION STATUTES; REVISING THOSE STATUTES AS THEY APPLY TO LEVEL DESIGNATIONS, DEFINITIONS, THE MINIMUM REGISTRATION PERIOD FOR LEVEL 1 OFFENDERS, AND FOREIGN CONVICTIONS REQUIRING REGISTRATION; AMENDING SECTIONS 46-18-222, 46-23-502, AND 46-23-509, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE.

[House Bill No. 203](#) -- (S) Died in Standing Committee -- 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.

[Senate Bill No. 149](#) -- Chapter Number Assigned -- AN ACT CREATING THE OFFENSE OF PREDATORY LOTTERING APPLICABLE TO PERSONS PREVIOUSLY CONVICTED OF A SEXUAL OFFENSE; AND PROVIDING A PENALTY.

[Senate Bill No. 152](#) -- Chapter Number Assigned -- AN ACT INCREASING THE PENALTY FOR SEXUAL ASSAULT FOR SECOND AND SUBSEQUENT OFFENSES; AND AMENDING SECTION 45-5-502, MCA.

[Senate Bill No. 276](#) -- (H) Died in Standing Committee -- AN ACT REVISING LAWS RELATING TO DEVIATE SEXUAL CONDUCT; REVISING THE DEFINITION OF "DEVIATE SEXUAL RELATIONS"; AND AMENDING SECTIONS 27-2-216, 41-3-102, 45-1-205, 45-2-101, 45-5-505, 46-18-205, AND 52-3-803, MCA.

2009

[House Bill No. 102](#) -- (S) Died in Standing Committee -- AN ACT INCREASING THE PENALTY FOR SEXUAL ASSAULT FOR SECOND AND SUBSEQUENT OFFENSES; AND AMENDING SECTION 45-5-502, MCA.

[House Bill No. 407](#) -- Chapter Number Assigned -- AN ACT REVISING THE LAW RELATING TO SEXUAL ABUSE OF CHILDREN; PROVIDING A REPORTING REQUIREMENT FOR PEACE OFFICERS; AND AMENDING SECTION 45-5-625, MCA.

[House Bill No. 528](#) -- (H) Died in Standing Committee -- AN ACT DOUBLING THE PENALTY FOR A SEXUAL OFFENSE IF THE OFFENDER IS A TEACHER AND THE VICTIM IS A MINOR; AMENDING SECTIONS 45-2-101, 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-602, 45-5-603, 45-5-622, 45-5-625, AND 45-5-627, MCA.

[House Bill No. 552](#) -- (H) Died in Standing Committee -- AN ACT PROHIBITING THE PLACEMENT OF ANY SEXUAL OFFENDERS AT A PRERELEASE CENTER IF THE COUNTY COMMISSION OF THE COUNTY WITHIN WHICH THE CENTER IS LOCATED VOTES NOT TO ALLOW THE PLACEMENT OF OFFENDERS AT THE PRERELEASE CENTER; AMENDING SECTION 53-1-203, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE.

[Senate Bill No. 103](#) -- Chapter Number Assigned -- AN ACT REQUIRING ALL PERSONS WHO ARE CONVICTED OF A SEXUAL OFFENSE AND WHO RECEIVE A SUSPENDED SENTENCE TO COMPLY WITH CERTAIN TERMS AND CONDITIONS DURING THE SUSPENDED PORTION OF THE SENTENCE; AMENDING SECTION 46-18-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[Senate Bill No. 159](#) -- (S) Died in Standing Committee -- AN ACT PROVIDING FOR THE DEFENSE OF CONSENT TO A CHARGE OF STATUTORY RAPE IF THE VICTIM IS MORE THAN 14 YEARS OF AGE AND THE OFFENDER IS NO MORE THAN 3 YEARS OLDER THAN THE VICTIM; AMENDING SECTION 45-5-501, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE.