

# TERMS IN STATUTE RELATED TO DEFINING VIOLENT CRIME

CRIMINAL JUSTICE OVERSIGHT COUNCIL  
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The [Montana Code Annotated](#) (MCA) has multiple, slightly varying, definitions to violent offense and related terms due to situational context. Below are the related terms and their definitions in [Title 44: Law Enforcement](#), [Title 45: Crimes](#), and [Title 46: Criminal Procedure](#). Clarifying additions in emphasis.

Term	Definition	Definition Applied
<p><b>Crime of Violence</b></p>	<p>Under <a href="#">46-18-104, MCA</a> "Crime of violence" means:</p> <p>(i) a crime in which an offender uses or possesses and threatens to use a deadly weapon during the commission or attempted commission of a crime;</p> <p>(ii) a crime in which the offender causes serious bodily injury or death to a person other than the offender; or</p> <p>(iii) an offense under:</p> <p>(A) <a href="#">45-5-215</a> (<i>Strangulation of Partner or Family Member</i>);</p> <p>(B) <a href="#">45-5-502</a> (<i>Sexual Assault</i>) for which the maximum potential sentence is life imprisonment or imprisonment in a state prison for a term exceeding 1 year;</p> <p>(C) <a href="#">45-5-503</a> (<i>Sexual Intercourse without Consent</i>), except as provided in subsection (2)(b) of this section;</p> <p>(D) <a href="#">45-5-507</a> (<i>Incest</i>) if the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing the offense;</p> <p>(E) <a href="#">45-5-508</a> (<i>Aggravated Sexual Intercourse without Consent</i>);</p> <p>(F) <a href="#">45-5-702</a> (<i>Sex Trafficking</i>);</p> <p>(G) <a href="#">45-5-703</a> (<i>Labor Trafficking</i>);</p> <p>(H) <a href="#">45-5-705</a> (<i>Patronizing Victim of Sex Trafficking</i>);</p> <p>(I) <a href="#">45-5-706</a> (<i>Aggravated Sex Trafficking</i>); or</p> <p>(J) <a href="#">45-5-711</a> (<i>Child Sex Trafficking</i>).</p>	<p>This definition resides under the Policy and Preliminary Procedure definitions of <i>Chapter 18. Sentence and Judgment</i> in <i>Title 46. Criminal Procedure</i></p> <p>This definition is only used in another definition, that of "nonviolent felony offender," which is also defined in section <a href="#">46-18-104, MCA</a>.</p> <p>When sentencing nonviolent felony offenders, a sentencing judge must consider other placements for the offender than in prison. Criteria for sentencing nonviolent offenders is in section <a href="#">46-18-225, MCA</a>.</p> <p>This definition of "crime of violence" is not used in the other sections to which <a href="#">46-18-104, MCA</a>, applies.</p>

	<p>Under <a href="#">45-8-302, MCA</a>, "Crime of violence" means any of the following crimes or an attempt to commit any of the crimes:</p> <ul style="list-style-type: none"> <li>any forcible felony,</li> <li>robbery,</li> <li>burglary, and</li> <li>criminal trespass.</li> </ul>	<p>This definition resides under weapons definitions of <i>Chapter 8. Offenses Against Public Order</i> in <i>Title 45. Crimes</i></p> <p>This definition of "Crime of Violence" applies in the possession of use of a machine gun in the connection with a crime, for offensive purpose, or for presumption of offensive or aggressive purpose.</p>
<p><b>Forcible Felony</b></p>	<p>Under <a href="#">45-2-101, MCA</a>, "Forcible felony" means a felony that involves the use or threat of physical force or violence against any individual.</p>	<p>This definition resides in <i>Chapter 2. General Principles of Liability</i> in <i>Title 45. Crimes</i>. It applies to all of <i>Title 45</i> unless a different statute provides otherwise.</p> <p>This definition is used in statutes that:</p> <ul style="list-style-type: none"> <li>• allow for an enhanced penalty for person who commits a forcible felony against a pregnant woman;</li> <li>• describe the offense of Deliberate Homicide;</li> <li>• define the use of force while committing a sexual crime; and</li> <li>• define crimes relating to machine guns.</li> </ul>
	<p>Under <a href="#">45-3-101, MCA</a>, "Forcible felony" means any felony which involves the use or threat of physical force or violence against any individual.</p>	<p>This definition resides under the definitions of when force is justified in <i>Chapter 3. Justifiable Use of Force</i> in <i>Title 45. Crimes</i></p> <p>This definition of "Forcible Felony" applies in the justifiable use of force in defense of a person, occupied structure, or other property to prevent a forcible felony.</p>

<p><b>Violent Felony Offense</b></p>	<p>Under <a href="#">46-18-1001, MCA</a>, “Violent Felony Offense” means deliberate homicide, mitigated deliberate homicide, negligent homicide, aggravated assault, negligent vehicular assault, kidnapping, aggravated kidnapping, robbery, sexual intercourse without consent, sexual abuse of children, arson, aggravated burglary, escape, any criminal attempt to commit an enumerated offense, or conviction as a persistent felony offender when the offender has a felony conviction for any of the listed offenses within the 5-year period preceding the date of the present conviction.</p>	<p>This definition resides under home arrest statutes <i>Chapter 18. Sentence and Judgement in Title 46. Criminal Procedure</i></p> <p>A person convicted of a violent felony offense in this part is ineligible for home arrest.</p>
<p><b>Violent Offense</b></p>	<p>Under <a href="#">46-16-226, MCA</a>, “Violent Offense” means any violation of or attempt, solicitation, or conspiracy to commit a violation of</p> <p><a href="#">45-5-102</a> (<i>Deliberate Homicide</i>),  <a href="#">45-5-103</a> (<i>Mitigated Deliberate Homicide</i>),  <a href="#">45-5-202</a> (<i>Aggravated Assault</i>),  <a href="#">45-5-206</a> (<i>Partner of Family Member Assault</i>),  <a href="#">45-5-210</a> (<i>Assault on Peace Officer of Judicial Officer</i>),  <a href="#">45-5-212</a> (<i>Assault on Minor</i>),  <a href="#">45-5-213</a> (<i>Assault with Weapon</i>),  <a href="#">45-5-215</a> (<i>Strangulation of Partner or Family Member</i>),  <a href="#">45-5-302</a> (<i>Kidnapping</i>),  <a href="#">45-5-303</a> (<i>Aggravated Kidnapping</i>),  <a href="#">45-5-401</a> (<i>Robbery</i>),  <a href="#">45-6-103</a> (<i>Arson</i>), or  <a href="#">45-9-132</a> (<i>Operation of Unlawful Clandestine Laboratory</i>).</p>	<p>This definition resides in the rules of evidence for criminal cases under <i>Chapter 16. Trial in Title 46. Criminal Procedure</i></p> <p>This definition of “Violent Offense” applies to the statutes detailing the protection of a child witness in court proceedings.</p>

<p>Under <a href="#">46-23-502, MCA</a>, "Violent offense" means:</p> <p>(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of:</p> <ul style="list-style-type: none"> <li>(i) <a href="#">45-5-102</a>, deliberate homicide;</li> <li>(ii) <a href="#">45-5-103</a>, mitigated deliberate homicide;</li> <li>(iii) <a href="#">45-5-202</a>, aggravated assault;</li> <li>(iv) <a href="#">45-5-206</a> (third or subsequent offense), partner or family member assault;</li> <li>(v) <a href="#">45-5-210</a>(1)(b), (1)(c), or (1)(d), assault on a peace officer or judicial officer;</li> <li>(vi) <a href="#">45-5-212</a>, assault on a minor;</li> <li>(vii) <a href="#">45-5-213</a>, assault with a weapon;</li> <li>(viii) <a href="#">45-5-215</a>, strangulation of a partner or family member;</li> <li>(ix) <a href="#">45-5-302</a> (if the victim is not a minor), kidnapping;</li> <li>(x) <a href="#">45-5-303</a> (if the victim is not a minor), aggravated kidnapping;</li> <li>(xi) <a href="#">45-5-401</a>, robbery;</li> <li>(xii) <a href="#">45-6-103</a>, arson; or</li> <li>(xiii) <a href="#">45-9-132</a>, operation of unlawful clandestine laboratory; or</li> </ul> <p>(b) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity reasonably equivalent to a violation listed in subsection (14)(a).</p>	<p>This definition is used in the Sexual or Violent Offenders Registry Act <i>Chapter 23</i>.</p> <p>This definition of "Violent Offense" is also used to:</p> <ul style="list-style-type: none"> <li>• require disclosure of child abuse records to appropriate law enforcement agencies when a child is exposed to a violent offense; (<a href="#">41-3-205, MCA</a>)</li> <li>• require a delinquent youth convicted of a violent offense to register as a violent offender; (<a href="#">41-5-1513, MCA</a>)</li> <li>• release of criminal history record to residential treatment centers providing for the offender; (<a href="#">44-5-302, MCA</a>)</li> <li>• include an offender's DNA in the DNA identification index; (<a href="#">44-6-101, MCA</a>)</li> <li>• define what constitutes a persistent felony offender; (<a href="#">46-1-202, MCA</a>)</li> <li>• allow a judge to order a presentence investigation for a defendant convicted of a misdemeanor; (<a href="#">46-18-111, MCA</a>)</li> <li>• limit when a judge may suspend execution of a sentence; and (<a href="#">46-18-201, MCA</a>)</li> <li>• limit how often a prisoner must be granted a parole hearing or review. (<a href="#">46-23-201, MCA</a>) (<a href="#">46-23-215, MCA</a>)</li> </ul>
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