

HOUSE BILL NO. 482

INTRODUCED BY C. HUNTER

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A BILL FOR AN ACT ENTITLED: "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."

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

Section 1. 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) "Municipality" means an entity that has incorporated as a city or town.

(4) "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.

(5) "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.

(6) "Registration agency" means:

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

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

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

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

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

3 (9) "Sexual offense" means:

4 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim
5 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
6 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
7 the offender is not a parent of the victim), 45-5-310, 45-5-311, 45-5-502 (if the offender is a professional licensed
8 under Title 37 and commits the offense during any treatment, consultation, interview, or evaluation of a person's
9 physical or mental condition, ailment, disease, or injury), 45-5-502(3) (if the victim is less than 16 years of age
10 and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years
11 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
12 age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and
13 the offender 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
14 (2)(b), or 45-5-625; or

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

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

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

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

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

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

27 (13) "Violent offense" means:

28 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,
29 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
30 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

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

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4 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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6 NEW SECTION. **Section 3. Applicability.** [This act] applies to offenses committed on or after [the
7 effective date of this act].

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