

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 **SJ19-2A** -- A BILL FOR AN ACT ENTITLED: "**AN ACT ELIMINATING THE VIOLENT OFFENDER**
6 **REGISTRY**; VACATING CERTAIN CONVICTIONS FOR FAILURE TO REGISTER AS A VIOLENT
7 OFFENDER; AMENDING SECTIONS 41-3-102, 41-3-205, 41-5-1513, 44-6-103, 46-1-202, 46-18-111, 46-18-
8 201, 46-18-255, 46-23-201, 46-23-215, 46-23-501, 46-23-502, 46-23-503, 46-23-504, 46-23-505, 46-23-506,
9 46-23-507, 46-23-508, 46-23-510, AND 46-23-520, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 **Section 1.** Section 41-3-102, MCA, is amended to read:

14 "**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

15 (1) (a) "Abandon", "abandoned", and "abandonment" mean:

16 (i) leaving a child under circumstances that make reasonable the belief that the parent does not
17 intend to resume care of the child in the future;

18 (ii) willfully surrendering physical custody for a period of 6 months and during that period not
19 manifesting to the child and the person having physical custody of the child a firm intention to resume physical
20 custody or to make permanent legal arrangements for the care of the child;

21 (iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable
22 efforts to identify and locate the parent have failed; or

23 (iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30
24 days old to an emergency services provider, as defined in 40-6-402.

25 (b) The terms do not include the voluntary surrender of a child to the department solely because of
26 parental inability to access publicly funded services.

27 (2) "A person responsible for a child's welfare" means:

28 (a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which

1 the child resides;

2 (b) a person providing care in a day-care facility;

3 (c) an employee of a public or private residential institution, facility, home, or agency; or

4 (d) any other person responsible for the child's welfare in a residential setting.

5 (3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or
6 neglect.

7 (4) (a) "Adequate health care" means any medical care or nonmedical remedial health care
8 recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the
9 withholding of medically indicated treatment or medically indicated psychological care permitted or authorized
10 under state law.

11 (b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the
12 sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care
13 for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the
14 state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm
15 to the child.

16 (5) "Best interests of the child" means the physical, mental, and psychological conditions and needs
17 of the child and any other factor considered by the court to be relevant to the child.

18 (6) "Child" or "youth" means any person under 18 years of age.

19 (7) (a) "Child abuse or neglect" means:

20 (i) actual physical or psychological harm to a child;

21 (ii) substantial risk of physical or psychological harm to a child; or

22 (iii) abandonment.

23 (b) (i) The term includes:

24 (A) actual physical or psychological harm to a child or substantial risk of physical or psychological
25 harm to a child by the acts or omissions of a person responsible for the child's welfare;

26 (B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the
27 criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an
28 unlawful clandestine laboratory, as prohibited by 45-9-132; or

1 (C) any form of child sex trafficking or human trafficking.

2 (ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances
3 described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

4 (c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this
5 term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C.
6 1912(f).

7 (d) The term does not include self-defense, defense of others, or action taken to prevent the child
8 from self-harm that does not constitute physical or psychological harm to a child.

9 (8) "Concurrent planning" means to work toward reunification of the child with the family while at the
10 same time developing and implementing an alternative permanent plan.

11 (9) "Department" means the department of public health and human services provided for in 2-15-
12 2201.

13 (10) "Family group decisionmaking meeting" means a meeting that involves family members in either
14 developing treatment plans or making placement decisions, or both.

15 (11) "Indian child" means any unmarried person who is under 18 years of age and who is either:

16 (a) a member of an Indian tribe; or

17 (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

18 (12) "Indian child's tribe" means:

19 (a) the Indian tribe in which an Indian child is a member or eligible for membership; or

20 (b) in the case of an Indian child who is a member of or eligible for membership in more than one
21 Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

22 (13) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal
23 law or custom or under state law or to whom temporary physical care, custody, and control have been
24 transferred by the child's parent.

25 (14) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of
26 Indians recognized by:

27 (a) the state of Montana; or

28 (b) the United States secretary of the interior as being eligible for the services provided to Indians or

1 because of the group's status as Indians, including any Alaskan native village as defined in federal law.

2 (15) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-
3 503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person
4 who is 18 years of age or older.

5 (16) "Parent" means a biological or adoptive parent or stepparent.

6 (17) "Parent-child legal relationship" means the legal relationship that exists between a child and the
7 child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been
8 terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

9 (18) "Permanent placement" means reunification of the child with the child's parent, adoption,
10 placement with a legal guardian, placement with a fit and willing relative, or placement in another planned
11 permanent living arrangement until the child reaches 18 years of age.

12 (19) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting
13 in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone
14 fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or
15 death.

16 (20) "Physical neglect" means either failure to provide basic necessities, including but not limited to
17 appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to
18 weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing
19 the child to be exposed to an unreasonable physical or psychological risk to the child.

20 (21) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent
21 or other person responsible for the child's welfare:

22 (i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological
23 abuse or neglect;

24 (ii) commits or allows sexual abuse or exploitation of the child;

25 (iii) induces or attempts to induce a child to give untrue testimony that the child or another child was
26 abused or neglected by a parent or other person responsible for the child's welfare;

27 (iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or
28 fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered

1 financial or other reasonable means to do so;

2 (v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare
3 by failing to intervene or eliminate the risk; or

4 (vi) abandons the child.

5 (b) The term does not include a youth not receiving supervision solely because of parental inability to
6 control the youth's behavior.

7 (22) (a) "Protective services" means services provided by the department:

8 (i) to enable a child alleged to have been abused or neglected to remain safely in the home;

9 (ii) to enable a child alleged to have been abused or neglected who has been removed from the home
10 to safely return to the home; or

11 (iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and
12 the best interests of the child prevent reunification with parents or a return to the home.

13 (b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary
14 protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to
15 parts 4 and 6 of this chapter.

16 (23) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that
17 are injurious to the child's emotional, intellectual, or psychological capacity to function, including the
18 commission of acts of violence against another person residing in the child's home.

19 (b) The term may not be construed to hold a victim responsible for failing to prevent the crime against
20 the victim.

21 (24) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the
22 federal Indian Child Welfare Act means:

23 (a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable
24 in tribal customs as they pertain to family organization and child-rearing practices;

25 (b) a lay expert witness who has substantial experience in the delivery of child and family services to
26 Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within
27 the Indian child's tribe; or

28 (c) a professional person who has substantial education and experience in providing services to

1 children and families and who possesses significant knowledge of and experience with Indian culture, family
2 structure, and child-rearing practices in general.

3 (25) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that
4 child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to
5 the person.

6 (26) "Residential setting" means an out-of-home placement where the child typically resides for longer
7 than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

8 (27) "Safety and risk assessment" means an evaluation by a social worker following an initial report of
9 child abuse or neglect to assess the following:

- 10 (a) the existing threat or threats to the child's safety;
- 11 (b) the protective capabilities of the parent or guardian;
- 12 (c) any particular vulnerabilities of the child;
- 13 (d) any interventions required to protect the child; and
- 14 (e) the likelihood of future physical or psychological harm to the child.

15 (28) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent,
16 aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or
17 incest, as described in Title 45, chapter 5.

18 (b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area
19 while attending to the sanitary or health care needs of that infant or toddler by a parent or other person
20 responsible for the child's welfare.

21 (29) "Sexual exploitation" means:

- 22 (a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-
23 5-601 through 45-5-603;
- 24 (b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or
- 25 (c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

26 (30) (a) "Social worker" means an employee of the department who, before the employee's field
27 assignment, has been educated or trained in a program of social work or a related field that includes cognitive
28 and family systems treatment or who has equivalent verified experience or verified training in the investigation

1 of child abuse, neglect, and endangerment.

2 (b) This definition does not apply to any provision of this code that is not in this chapter.

3 (31) "Treatment plan" means a written agreement between the department and the parent or guardian
4 or a court order that includes action that must be taken to resolve the condition or conduct of the parent or
5 guardian that resulted in the need for protective services for the child. The treatment plan may involve court
6 services, the department, and other parties, if necessary, for protective services.

7 (32) "Violent offense" means:

8 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,
9 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-
10 215, 45-5-302 (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-
11 132; or

12 (b) any violation of a law of another state, a tribal government, or the federal government reasonably
13 equivalent to a violation listed in subsection (32)(a).

14 ~~(32)~~(33) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's
15 life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication,
16 that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in
17 ameliorating or correcting the conditions.

18 (b) The term does not include the failure to provide treatment, other than appropriate nutrition,
19 hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical
20 judgment:

21 (i) the infant is chronically and irreversibly comatose;

22 (ii) the provision of treatment would:

23 (A) merely prolong dying;

24 (B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

25 (C) otherwise be futile in terms of the survival of the infant; or

26 (iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the

27 treatment itself under the circumstances would be inhumane. For purposes of this subsection ~~(32)~~(33), "infant"

28 means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously

1 hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference
2 to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued
3 when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws
4 regarding medical neglect of children 1 year of age or older.

5 ~~(33)~~(34) "Youth in need of care" means a youth who has been adjudicated or determined, after a
6 hearing, to be or to have been abused, neglected, or abandoned."

7

8 **Section 2.** Section 41-3-205, MCA, is amended to read:

9 **"41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and its
10 local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken
11 under this chapter and all records concerning reports of child abuse and neglect must be kept confidential
12 except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or
13 knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a
14 misdemeanor.

15 (2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The
16 court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before
17 it.

18 (3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless
19 otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the
20 child or harmful to another person who is a subject of information contained in the records, may be disclosed to
21 the following persons or entities in this state and any other state or country:

22 (a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal
23 organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and
24 that otherwise meets the disclosure criteria contained in this section;

25 (b) a licensed youth care facility or a licensed child-placing agency that is providing services to the
26 family or child who is the subject of a report in the records or to a person authorized by the department to
27 receive relevant information for the purpose of determining the best interests of a child with respect to an
28 adoptive placement;

1 (c) a health or mental health professional who is treating the family or child who is the subject of a
2 report in the records;

3 (d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in
4 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in
5 the records or other person responsible for the child's welfare, without disclosure of the identity of any person
6 who reported or provided information on the alleged child abuse or neglect incident contained in the records;

7 (e) a child named in the records who was allegedly abused or neglected or the child's legal guardian
8 or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by
9 the court to represent a child in a pending case;

10 (f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

11 (g) approved foster and adoptive parents who are or may be providing care for a child;

12 (h) a person about whom a report has been made and that person's attorney, with respect to the
13 relevant records pertaining to that person only and without disclosing the identity of the reporter or any other
14 person whose safety may be endangered;

15 (i) an agency, including a probation or parole agency, that is legally responsible for the supervision of
16 an alleged perpetrator of child abuse or neglect;

17 (j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and
18 that is authorized by the department to conduct the research or evaluation;

19 (k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family
20 group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a
21 treatment plan, and monitoring the plan;

22 (l) the coroner or medical examiner when determining the cause of death of a child;

23 (m) a child fatality review team recognized by the department, including the child abuse and neglect
24 review commission established in 2-15-2019];

25 (n) a department or agency investigating an applicant for a license or registration that is required to
26 operate a youth care facility, day-care facility, or child-placing agency;

27 (o) a person or entity who is carrying out background, employment-related, or volunteer-related
28 screening of current or prospective employees or volunteers who have or may have unsupervised contact with

1 children through employment or volunteer activities. A request for information under this subsection (3)(o) must
2 be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to
3 children posed by the person about whom the information is sought, as determined by the department.

4 (p) the news media, if disclosure is limited to confirmation of factual information regarding how the
5 case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or
6 guardian, as determined by the department;

7 (q) an employee of the department or other state agency if disclosure of the records is necessary for
8 administration of programs designed to benefit the child;

9 (r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if
10 disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

11 (s) a juvenile probation officer who is working in an official capacity with the child who is the subject of
12 a report in the records;

13 (t) an attorney who is hired by or represents the department if disclosure is necessary for the
14 investigation, defense, or prosecution of a case involving child abuse or neglect;

15 (u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review
16 board established under Title 41, chapter 3, part 10;

17 (v) a school employee participating in an interview of a child by a social worker, county attorney, or
18 peace officer, as provided in 41-3-202;

19 (w) a member of a county or regional interdisciplinary child information and school safety team formed
20 under the provisions of 52-2-211;

21 (x) members of a local interagency staffing group provided for in 52-2-203;

22 (y) a member of a youth placement committee formed under the provisions of 41-5-121; or

23 (z) a principal of a school or other employee of the school district authorized by the trustees of the
24 district to receive the information with respect to a student of the district who is a client of the department.

25 (4) (a) The records described in subsection (3) must be disclosed to a member of the United States
26 congress or a member of the Montana legislature if all of the following requirements are met:

27 (i) the member receives a written inquiry regarding a child and whether the laws of the United States
28 or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws

1 need to be changed to enhance protections for children;

2 (ii) the member submits a written request to the department requesting to review the records relating to
3 the written inquiry. The member's request must include a copy of the written inquiry, the name of the child
4 whose records are to be reviewed, and any other information that will assist the department in locating the
5 records.

6 (iii) before reviewing the records, the member:

7 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for
8 unauthorized release of the information; and

9 (B) receives from the department an orientation of the content and structure of the records.

10 (b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the
11 member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and
12 must remain solely in the department's possession. The member must be allowed to view the records in the
13 local office where the case is or was active.

14 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
15 the written request to review records was received by the department.

16 (5) (a) The records described in subsection (3) must be promptly released to any of the following
17 individuals upon a written request by the individual to the department or the department's designee:

18 (i) the attorney general;

19 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
20 occurred;

21 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
22 occurred; or

23 (iv) the office of the child and family ombudsman.

24 (b) The records described in subsection (3) must be promptly disclosed by the department to an
25 appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information
26 and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating
27 that any of the following has occurred:

28 (i) the death of the child as a result of child abuse or neglect;

- 1 (ii) a sexual offense, as defined in 46-23-502, against the child;
- 2 (iii) exposure of the child to an actual and not a simulated violent offense ~~as defined in 46-23-502~~; or
- 3 (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances
- 4 constituting the criminal manufacture or distribution of dangerous drugs.

5 (c) (i) The department shall promptly disclose the results of an investigation to an individual
6 described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety
7 team established pursuant to 52-2-211 upon the determination that:

8 (A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II
9 drug whose manufacture, sale, or possession is prohibited under state law; or

10 (B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of
11 a Schedule I or Schedule II drug that is prohibited by state law.

12 (ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to
13 inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have
14 contact with drug paraphernalia as defined in 45-10-101.

15 (d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be
16 released within 5 business days to the county attorney of the county in which the acts that are the subject of a
17 report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual
18 exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a)
19 and to a county or regional interdisciplinary child information and school safety team established pursuant to
20 52-2-211.

21 (ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides
22 confidential services to victims of sexual assault shall report to the department as provided in this part without
23 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

24 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
25 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
26 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
27 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as
28 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

1 (6) A school or school district may disclose, without consent, personally identifiable information from
2 the education records of a pupil to the department, the court, a review board, and the child's assigned attorney,
3 guardian ad litem, or special advocate.

4 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
5 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
6 consent provisions of the law.

7 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
8 share information with other courts of this state or of another state when necessary to expedite the interstate
9 placement of children.

10 (9) A person who is authorized to receive records under this section shall maintain the confidentiality
11 of the records and may not disclose information in the records to anyone other than the persons described in
12 subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep
13 the proceedings confidential.

14 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
15 reporting facts or statements made by an immediate family member under subsection (9) if the news
16 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
17 proceeding.

18 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
19 enforcement agencies, or medical records covered by state or federal disclosure limitations.

20 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this
21 section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
22 guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates
23 September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

24

25 **Section 3.** Section 41-5-1513, MCA, is amended to read:

26 **"41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent
27 youth, the youth court may enter its judgment making one or more of the following dispositions:

28 (a) any one or more of the dispositions provided in 41-5-1512;

1 (b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for
2 placement in a state youth correctional facility or other appropriate program as determined by the department
3 and recommend to the department that the youth not be released until the youth reaches 18 years of age. The
4 provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b). The
5 court may not place a youth adjudicated to be a delinquent youth in a state youth correctional facility for an act
6 that would be a misdemeanor if committed by an adult unless:

7 (i) the youth committed four or more misdemeanors in the prior 12 months;

8 (ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or
9 a licensed clinical social worker has evaluated the youth and recommends placement in a state youth
10 correctional facility; and

11 (iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state
12 youth correctional facility.

13 ~~(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the~~
14 ~~result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by~~
15 ~~an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The~~
16 ~~youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.~~

17 ~~(d)(c)~~ in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in
18 46-23-502, the youth is exempt from the duty to register as a sexual offender pursuant to Title 46, chapter 23,
19 part 5, unless the court finds that:

20 (i) the youth has previously been found to have committed or been adjudicated for a sexual offense,
21 as defined in 46-23-502; or

22 (ii) registration is necessary for protection of the public and that registration is in the public's best
23 interest;

24 ~~(e)(d)~~ in the case of a delinquent youth who is determined by the court to be a serious juvenile
25 offender, the judge may specify that the youth be placed in a state youth correctional facility, subject to the
26 provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public.
27 The court may order the department to notify the court within 5 working days before the proposed release of a
28 youth from a youth correctional facility. Once a youth is committed to the department for placement in a state

1 youth correctional facility, the department is responsible for determining an appropriate date of release or an
2 alternative placement.

3 (f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if
4 committed by an adult.

5 (2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court
6 shall:

7 (a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-
8 18-111;

9 (b) designate the youth's risk level pursuant to 46-23-509;

10 (c) require completion of sexual offender treatment; and

11 (d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the
12 youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth
13 court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed
14 pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-
15 205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is
16 transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the
17 restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the
18 supervision of the offender is transferred to the department.

19 (3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if
20 the youth is under the youth court's jurisdiction or the department if the youth is under the department's
21 jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the
22 adjudication, any terms of probation or conditional release, and the facts of the offense for which the youth was
23 adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the
24 superintendent.

25 (4) The court may not order a local government entity to pay for care, treatment, intervention, or
26 placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a
27 youth, except as provided in 52-5-109.

28 (5) The court may not order a state government entity to pay for care, treatment, intervention,

1 placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-
2 130 without approval from the office of court administrator.

3 (6) The duration of registration for a youth who is required to register as a sexual ~~or violent~~ offender
4 must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser
5 duration of registration."
6

7 **Section 4.** Section 44-6-103, MCA, is amended to read:

8 **"44-6-103. Collection of samples and maintenance of data.** (1) Following entry of judgment, a
9 person convicted of a felony offense, a youth found under 41-5-1502 to have committed a sexual or violent
10 offense, a defendant ordered under 46-18-202 to provide a biological sample for DNA testing, a person
11 required to register as a sexual ~~or violent~~ offender under 46-23-504, or an adult offender convicted in another
12 state and sentenced to death or imprisonment for more than 1 year who is subject to supervision by the
13 department of corrections pursuant to the Interstate Compact for Adult Offender Supervision provided for in 46-
14 23-1115 shall provide a biological sample for DNA analysis to determine identification characteristics specific to
15 the person. The sample must be provided to the department of corrections if the person is incarcerated in a
16 facility administered by the department of corrections. If the person is not incarcerated in a facility administered
17 by the department of corrections, the sample must be provided to a person or entity designated by the county
18 sheriff.

19 (2) The biological sample must be collected, stored, and sent by the department of corrections or the
20 person or entity designated by the county sheriff under subsection (1) to the department for entry in the DNA
21 identification index in accordance with rules adopted by the department with the advice of the department of
22 public health and human services.

23 (3) The offender is responsible, if able to pay, for the cost of the collection of the sample. The fees
24 charged for the collection may not exceed the actual costs of collection.

25 (4) The forensic DNA laboratory may perform DNA analysis only for those markers that have value for
26 law enforcement identification purposes.

27 (5) The knowing refusal or failure to provide a biological sample under this part is grounds for
28 revocation of a suspended or deferred imposition of sentence."

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Section 5. Section 46-1-202, MCA, is amended to read:

"46-1-202. Definitions. As used in this title, unless the context requires otherwise, the following definitions apply:

(1) "Advanced practice registered nurse" means an individual certified as an advanced practice registered nurse provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing.

(2) "Arraignment" means the formal act of calling the defendant into open court to enter a plea answering a charge.

(3) "Arrest" means taking a person into custody in the manner authorized by law.

(4) "Arrest warrant" means a written order from a court directed to a peace officer or to some other person specifically named commanding that officer or person to arrest another. The term includes the original warrant of arrest and a copy certified by the issuing court.

(5) "Bail" means the security given for the primary purpose of ensuring the presence of the defendant in a pending criminal proceeding.

(6) "Charge" means a written statement that accuses a person of the commission of an offense, that is presented to a court, and that is contained in a complaint, information, or indictment.

(7) "Conviction" means a judgment or sentence entered upon a guilty or nolo contendere plea or upon a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(8) "Court" means a place where justice is judicially administered and includes the judge of the court.

(9) "Included offense" means an offense that:

(a) is established by proof of the same or less than all the facts required to establish the commission of the offense charged;

(b) consists of an attempt to commit the offense charged or to commit an offense otherwise included in the offense charged; or

(c) differs from the offense charged only in the respect that a less serious injury or risk to the same person, property, or public interest or a lesser kind of culpability suffices to establish its commission.

(10) "Judge" means a person who is vested by law with the power to perform judicial functions.

1 (11) "Judgment" means an adjudication by a court that the defendant is guilty or not guilty, and if the
2 adjudication is that the defendant is guilty, it includes the sentence pronounced by the court.

3 (12) "Make available for examination and reproduction" means to make material and information that is
4 subject to disclosure available upon request at a designated place during specified reasonable times and to
5 provide suitable facilities or arrangements for reproducing it. The term does not mean that the disclosing party
6 is required to make copies at its expense, to deliver the materials or information to the other party, or to supply
7 the facilities or materials required to carry out tests on disclosed items. The parties may by mutual consent
8 make other or additional arrangements.

9 (13) "New trial" means a reexamination of the issue in the same court before another jury after a
10 verdict or finding has been rendered.

11 (14) "Notice to appear" means a written direction that is issued by a peace officer and that requests a
12 person to appear before a court at a stated time and place to answer a charge for the alleged commission of an
13 offense.

14 (15) "Offense" means a violation of any penal statute of this state or any ordinance of its political
15 subdivisions.

16 (16) "Parole" means the release to the community of a prisoner by a decision of the board of pardons
17 and parole prior to the expiration of the prisoner's term subject to conditions imposed by the board of pardons
18 and parole and the supervision of the department of corrections.

19 (17) "Peace officer" means any person who by virtue of the person's office or public employment is
20 vested by law with a duty to maintain public order and make arrests for offenses while acting within the scope of
21 the person's authority.

22 (18) "Persistent felony offender" means an offender who has previously been convicted of two
23 separate felonies and who is presently being sentenced for a third felony committed on a different occasion
24 than either of the first two felonies. At least one of the three felonies must be a sexual offense ~~or a violent~~
25 ~~offense as those terms are as~~ defined in 46-23-502 or a violent offense. An offender is considered to have
26 previously been convicted of two separate felonies if:

27 (a) the two previous felonies were for offenses that were committed in this state or any other
28 jurisdiction for which a sentence of imprisonment in excess of 1 year could have been imposed;

- 1 (b) less than 5 years have elapsed between the commission of the present offense and either:
- 2 (i) the most recent of the two felony convictions; or
- 3 (ii) the offender's release on parole or otherwise from prison or other commitment imposed as a result
- 4 of a previous felony conviction; and
- 5 (c) the offender has not been pardoned on the ground of innocence and the conviction has not been
- 6 set aside at a postconviction hearing.

7 (19) "Place of trial" means the geographical location and political subdivision in which the court that will

8 hear the cause is situated.

9 (20) "Preliminary examination" means a hearing before a judge for the purpose of determining if there

10 is probable cause to believe a felony has been committed by the defendant.

11 (21) "Probation" means release by the court without imprisonment of a defendant found guilty of a

12 crime. The release is subject to the supervision of the department of corrections upon direction of the court.

13 (22) "Prosecutor" means an elected or appointed attorney who is vested by law with the power to

14 initiate and carry out criminal proceedings on behalf of the state or a political subdivision.

15 (23) "Same transaction" means conduct consisting of a series of acts or omissions that are motivated

16 by:

17 (a) a purpose to accomplish a criminal objective and that are necessary or incidental to the

18 accomplishment of that objective; or

19 (b) a common purpose or plan that results in the repeated commission of the same offense or effect

20 upon the same person or the property of the same person.

21 (24) "Search warrant" means an order that is:

22 (a) in writing;

23 (b) in the name of the state;

24 (c) signed by a judge;

25 (d) a particular description of the place, object, or person to be searched and the evidence,

26 contraband, or person to be seized; and

27 (e) directed to a peace officer and commands the peace officer to search for evidence, contraband, or

28 persons.

1 (25) "Sentence" means the judicial disposition of a criminal proceeding upon a plea of guilty or nolo
2 contendere or upon a verdict or finding of guilty.

3 (26) "Statement" means:

4 (a) a writing signed or otherwise adopted or approved by a person;

5 (b) a video or audio recording of a person's communications or a transcript of the communications;

6 and

7 (c) a writing containing a summary of a person's oral communications or admissions.

8 (27) "Summons" means a written order issued by the court that commands a person to appear before
9 a court at a stated time and place to answer a charge for the offense set forth in the order.

10 (28) "Superseded notes" means handwritten notes, including field notes, that have been substantially
11 incorporated into a statement. The notes may not be considered a statement and are not subject to disclosure
12 except as provided in 46-15-324.

13 (29) "Temporary road block" means any structure, device, or means used by a peace officer for the
14 purpose of controlling all traffic through a point on the highway where all vehicles may be slowed or stopped.

15 (30) "Violent offense" means:

16 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,
17 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-
18 215, 45-5-302 (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-
19 132; or

20 (b) any violation of a law of another state, a tribal government, or the federal government reasonably
21 equivalent to a violation listed in subsection (29)(a).

22 ~~(30)~~(31) "Witness" means a person whose testimony is desired in a proceeding or investigation by a
23 grand jury or in a criminal action, prosecution, or proceeding.

24 ~~(31)~~(32) "Work product" means legal research, records, correspondence, reports, and memoranda,
25 both written and oral, to the extent that they contain the opinions, theories, and conclusions of the prosecutor,
26 defense counsel, or their staff or investigators."

27

28 **Section 6.** Section 46-18-111, MCA, is amended to read:

1 **"46-18-111. Presentence investigation -- when required -- definition.** (1) (a) (i) Upon the
2 acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, except as provided in
3 subsection (1)(d), the district court may request and direct the probation and parole officer to make a
4 presentence investigation and report unless an investigation and report has been provided to the court prior to
5 the plea or the verdict or finding of guilty.

6 (ii) Unless additional information is required under subsection (1)(b), (1)(c), (1)(d), or (1)(e) or unless
7 more time is required to allow for victim input, a preliminary or final presentence investigation and report, if
8 requested, must be available to the court within 30 business days of the plea or the verdict or finding of guilty.

9 (iii) If a presentence investigation report has been requested, the district court shall consider the
10 presentence investigation report prior to sentencing.

11 (b) (i) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507,
12 45-5-508, 45-5-601(3), 45-5-602(3), 45-5-603(2)(b) or (2)(c), 45-5-625, 45-5-627, 45-5-704, 45-5-705, or 45-8-
13 218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a
14 sexual offender pursuant to Title 46, chapter 23, part 5, the court shall order a psychosexual evaluation of the
15 defendant that includes a recommendation as to treatment of the defendant in the least restrictive environment,
16 considering the risk the defendant presents to the community and the defendant's needs, unless the defendant
17 was sentenced under 46-18-219.

18 (ii) Unless a psychosexual evaluation has been provided to the court prior to the plea or the verdict or
19 finding of guilty, the evaluation must be completed by a sexual offender evaluator selected by the court and
20 who has credentials acceptable to the department of labor and industry and the court. The psychosexual
21 evaluation must be made available to the county attorney's office, the defense attorney, the probation and
22 parole officer, and the sentencing judge.

23 (iii) All costs related to the evaluation, including an evaluation ordered by the court as allowed in
24 subsection (1)(b)(ii), must be paid by the defendant. If the defendant is determined by the district court to be
25 indigent, all costs related to the evaluation, including an evaluation ordered by the court as allowed in
26 subsection (1)(b)(ii), are the responsibility of the district court and must be paid by the county or the state, or
27 both, under Title 3, chapter 5, part 9. The district court may order subsequent psychosexual evaluations at the
28 request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for

1 the cost of the evaluation.

2 (c) (i) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation
3 may include a mental health evaluation of the defendant and a recommendation as to treatment of the
4 defendant in the least restrictive environment, considering the risk the defendant presents to the community
5 and the defendant's needs.

6 (ii) The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist,
7 advanced practice registered nurse, or other professional with comparable credentials acceptable to the
8 department of labor and industry. The mental health evaluation must be made available to the county attorney's
9 office, the defense attorney, the probation and parole officer, and the sentencing judge.

10 (iii) All costs related to the evaluation must be paid by the defendant. If the defendant is determined by
11 the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and
12 must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

13 (d) If the defendant is convicted of a violent offense, ~~as defined in 46-23-502,~~ or if the defendant is
14 convicted of a crime for which a victim or entity may be entitled to restitution, and the amount of restitution is not
15 contained in a plea agreement, the court shall order a presentence investigation.

16 (e) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report
17 pursuant to this section, the mental evaluation must be attached to the presentence investigation report and
18 becomes part of the report. The report must be made available to persons and entities as provided in 46-18-
19 113.

20 (2) The district court may order a presentence investigation for a defendant convicted of a
21 misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a
22 sexual ~~or violent~~ offense as defined in 46-23-502 or a violent offense.

23 (3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is
24 completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time.
25 The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5).

26 (4) For the purposes of 46-18-112 and this section, "probation and parole officer" means:

27 (a) a probation and parole officer who is employed by the department of corrections pursuant to 46-
28 23-1002; or

1 (b) an employee of the department of corrections who has received specific training or who
2 possesses specific expertise to make a presentence investigation and report but who is not required to be
3 licensed as a probation and parole officer by the public safety officer standards and training council created in
4 2-15-2029."

5

6 **Section 7.** Section 46-18-201, MCA, is amended to read:

7 **"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of
8 an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer
9 imposition of sentence, except as otherwise specifically provided by statute, for a period:

- 10 (i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or
11 (ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a
12 financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless
13 of whether any other conditions are imposed.

14 (b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in
15 the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence
16 was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

17 (2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty
18 or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically
19 provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is
20 greater, for each particular offense.

21 (3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of
22 guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

- 23 (i) a fine as provided by law for the offense;
24 (ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in
25 46-8-113;
26 (iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a
27 state prison to be designated by the department of corrections;
28 (iv) commitment of:

1 (A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a
2 recommendation for placement in an appropriate correctional facility or program; however, all but the first 5
3 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-
4 503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

5 (B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an
6 offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for
7 placement in an appropriate correctional facility or program;

8 (v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by
9 and for a period of time determined by the department of corrections, but not exceeding the period of state
10 supervision of the person;

11 (vi) commitment of an offender to the department of corrections with the requirement that immediately
12 subsequent to sentencing or disposition the offender is released to community supervision and that any
13 subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or

14 (vii) any combination of subsection (2) and this subsection (3)(a).

15 (b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank
16 program.

17 (4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the
18 sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the
19 deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection
20 (1)(a) or (2) may include but are not limited to:

21 (a) limited release during employment hours as provided in 46-18-701;

22 (b) incarceration in a detention center not exceeding 180 days;

23 (c) conditions for probation;

24 (d) payment of the costs of confinement;

25 (e) payment of a fine as provided in 46-18-231;

26 (f) payment of costs as provided in 46-18-232 and 46-18-233;

27 (g) payment of costs of assigned counsel as provided in 46-8-113;

28 (h) with the approval of the facility or program, an order that the offender be placed in a community

1 corrections facility or program as provided in 53-30-321;

2 (i) with the approval of the prerelease center or prerelease program and confirmation by the
3 department of corrections that space is available and that the offender is a suitable candidate, an order that the
4 offender be placed in a chemical dependency treatment program, prerelease center, or prerelease program for
5 a period not to exceed 1 year;

6 (j) community service;

7 (k) home arrest as provided in Title 46, chapter 18, part 10;

8 (l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

9 (m) participation in a day reporting program provided for in 53-1-203;

10 (n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4,
11 part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a
12 second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse
13 of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any
14 statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs
15 was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for
16 a first, second, or subsequent violation of the statute;

17 (o) participation in a restorative justice program approved by court order and payment of a
18 participation fee of up to \$150 for program expenses if the program agrees to accept the offender;

19 (p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the
20 protection of the victim or society;

21 (q) with approval of the program and confirmation by the department of corrections that space is
22 available, an order that the offender be placed in a residential treatment program; or

23 (r) any combination of the restrictions or conditions listed in this subsection (4).

24 (5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a
25 verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in
26 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require
27 payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of
28 the sentence is deferred or suspended.

1 (6) (a) Except as provided in subsection (6)(b), in addition to any of the penalties, restrictions, or
2 conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension
3 of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty,
4 restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be
5 accomplished as provided in 61-5-214 through 61-5-217.

6 (b) A person's license or driving privilege may not be suspended due to nonpayment of fines, costs, or
7 restitution.

8 (7) In imposing a sentence on an offender convicted of a sexual ~~or violent~~ offense, as defined in 46-
9 23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part
10 5.

11 (8) If a felony sentence includes probation, the department of corrections shall supervise the offender
12 unless the court specifies otherwise.

13 (9) When imposing a sentence under this section that includes incarceration in a detention facility or
14 the state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before
15 trial or sentencing.

16 (10) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."
17

18 **Section 8.** Section 46-18-255, MCA, is amended to read:

19 **"46-18-255. Sentence on conviction -- restriction on employment and residency -- definition.** (1)

20 A judge sentencing a person convicted of a sexual or violent offense shall, as a condition to probation, parole,
21 or deferment or suspension of sentence, impose on the defendant reasonable employment or occupational
22 prohibitions and restrictions designed to protect the class or classes of persons containing the likely victims of
23 further offenses by the defendant.

24 (2) In addition to any restriction on employment imposed under subsection (1), a judge sentencing a
25 person convicted of a sexual offense involving a minor and designated as a level 3 offender under 46-23-509
26 shall, as a condition to probation, parole, or deferment or suspension of sentence, impose on the defendant
27 restrictions on the defendant's residency in the proximity of a private or public elementary or high school,
28 preschool as defined in 20-5-402, licensed day-care center, church, or park maintained by a city, town, or

1 county.

2 (3) If requested by a victim of a sexual offense committed by the defendant, or if requested by an
3 immediate family member of the victim, the judge sentencing a person convicted of a sexual offense shall, as a
4 condition to probation, parole, or deferment or suspension of sentence, impose on the defendant a restriction
5 prohibiting the defendant from directly or indirectly contacting the victim or the immediate family member of the
6 victim. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

7 (4) Restrictions imposed pursuant to this section must be compatible with the restrictions provided for
8 in 45-5-513.

9 (5) For the purposes of this section, "violent offense" means:

10 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,
11 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-
12 215, 45-5-302 (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-
13 132; or

14 (b) any violation of a law of another state, a tribal government, or the federal government reasonably
15 equivalent to a violation listed in subsection (5)(a)."

16
17 **Section 9.** Section 46-23-201, MCA, is amended to read:

18 **"46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in
19 subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole
20 by appropriate order any person who is:

- 21 (a) confined in a state prison;
- 22 (b) sentenced to the state prison and confined in a prerelease center;
- 23 (c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a youth correctional facility;
- 24 (d) sentenced to be committed to the custody of the director of the department of public health and
25 human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana
26 developmental center, or the Montana mental health nursing care center.

27 (2) Persons under sentence of death, persons sentenced to the department who have been placed by
28 the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences

1 imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

2 (3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has
3 served at least one-fourth of the prisoner's full term.

4 (4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has
5 served 30 years.

6 (5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is
7 confined for a violent offense or a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the
8 prisoner is confined for any other offense before a hearing panel conducts another hearing or review."
9

10 **Section 10.** Section 46-23-215, MCA, is amended to read:

11 **"46-23-215. Conditions of parole.** (1) A prisoner while on parole remains in the legal custody of the
12 department but is subject to the orders of the board.

13 (2) (a) When a hearing panel issues an order for parole, the order must recite the conditions of parole.
14 The hearing panel shall consider the parole guidelines governing conditions and the parole plan provided by the
15 department before imposing conditions of parole to address the prisoner's criminogenic factors. If restitution
16 was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay
17 restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for
18 purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under 44-6-103 and if the
19 prisoner was convicted of, or was found under 41-5-1502 to have committed, a sexual offense or violent
20 offense.

21 (b) The board may require the prisoner convicted of a sexual offense to refrain from direct or indirect
22 contact with a victim of the crime or with an immediate family member of the victim. If a victim or an immediate
23 family member requests that the prisoner not contact the victim or immediate family member, the board shall
24 require the prisoner to refrain from contact with the victim or immediate family member. If the victim is a minor,
25 a parent or guardian of the victim may make the request on the victim's behalf.

26 (c) An order for parole or any parole agreement signed by a prisoner may contain a clause waiving
27 extradition.

28 (3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain

1 employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while
2 incarcerated, the hearing panel or the presiding officer of the board may grant the prisoner a furlough, not to
3 exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner
4 is not on parole and is subject to official detention as defined in 45-7-306. The prisoner remains in the legal
5 custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding
6 officer of the board.

7 (4) For the purposes of this section, "sexual offense" ~~and "violent offense" have the meanings_ has~~
8 ~~the meaning~~ provided in 46-23-502."

9

10

Section 11. Section 46-23-501, MCA, is amended to read:

11

"46-23-501. Short title. Section 46-18-255 and this part may be cited as the "Sexual ~~or Violent~~
12 Offender Registration Act"."

13

14

Section 12. Section 46-23-502, MCA, is amended to read:

15

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

16

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

17

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional,

18

or volitional capacity of a person in a manner that predisposes the person to the commission of one or more
19 sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

20

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

21

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the

22

Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

23

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a

24

person with whom a relationship has been established or furthered for the primary purpose of victimization.

25

(6) "Registration agency" means:

26

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

27

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

28

the offender resides.

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

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

5 (8) "Sexual offender evaluator" means a person qualified under rules established by the department
6 to conduct psychosexual evaluations of sexual offenders and sexually violent predators.

7 (9) "Sexual offense" means:

8 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the
9 victim 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
10 than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years
11 of age and the offender is not a parent of the victim), 45-5-502 (if the offender is a professional licensed under
12 Title 37 and commits the offense during any treatment, consultation, interview, or evaluation of a person's
13 physical or mental condition, ailment, disease, or injury), 45-5-502(3) (if the victim is less than 16 years of age
14 and the offender is 3 or more years older than the victim), 45-5-503(1), (3), or (4), 45-5-504(2)(c), 45-5-504(3)
15 (if the victim is less than 16 years of age and the offender is 4 or more years older than the victim), 45-5-507 (if
16 the victim is less than 18 years of age and the offender is 3 or more years older than the victim or if the victim is
17 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-508,
18 45-5-601(3), 45-5-602(3), 45-5-603(1)(b), (2)(b), or (2)(c), 45-5-625, 45-5-704, or 45-5-705; or

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

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

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

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

28 (b) has been convicted of a sexual offense against a victim 12 years of age or younger and the

1 offender is 18 years of age or older.

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

3 ~~(13) "Violent offense" means:~~

4 ~~(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103,~~
5 ~~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-~~
6 ~~215, 45-5-302 (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-~~
7 ~~132; or~~

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

10
11 **Section 13.** Section 46-23-503, MCA, is amended to read:

12 **"46-23-503. Release of sexual ~~or violent~~ offender from place of confinement -- duties of official**
13 **in charge.** (1) A sexual ~~or violent~~ offender who is released from the custody of the department of corrections
14 must be informed in writing not less than 10 days prior to release of the duty to register under this part by the
15 official in charge of the place of confinement.

16 (2) Prior to the offender's release from custody, the official shall obtain and give to the department of
17 justice and to the sheriff of the county in which the offender intends to reside or, if the offender intends to reside
18 in a municipality, to the chief of police of the municipality:

- 19 (a) the address at which the offender intends to reside upon release from the department's custody;
- 20 (b) the offender's fingerprints and photo, unless they are already in the possession of the department
21 of justice, sheriff, or chief of police; and
- 22 (c) a form signed by and read to or by the offender stating that the offender's duty to register under
23 this part has been explained to the offender."

24
25 **Section 14.** Section 46-23-504, MCA, is amended to read:

26 **"46-23-504. Persons required to register -- procedure.** (1) Except as provided in 41-5-1513, a
27 sexual ~~or violent~~ offender:

28 (a) shall register immediately upon conclusion of the sentencing hearing if the offender is not

1 sentenced to confinement or is not sentenced to the department and placed in confinement by the department;

2 (b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if

3 sentenced to confinement or sentenced to the department and placed in confinement by the department;

4 (c) shall register within 3 business days of entering a county of this state for the purpose of residing or
5 setting up a temporary residence for 10 days or more or for an aggregate period exceeding 30 days in a
6 calendar year; and

7 (d) who is a transient shall register within 3 business days of entering a county of this state.

8 (2) Registration under subsection (1)(a), (1)(c), or (1)(d) must be with the appropriate registration
9 agency. If an offender registers with a police department, the department shall notify the sheriff's office of the
10 county in which the municipality is located of the registration. The probation officer having supervision over an
11 offender required to register under subsection (1)(a) shall verify the offender's registration status with the
12 appropriate registration agency.

13 (3) At the time of registering, the offender shall sign a statement in writing giving the information
14 required by subsections (3)(a) through (3)(h) and any other information required by the department of justice.
15 The registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the
16 department of justice, photograph the offender, and obtain a DNA sample from the offender. Within 3 days, the
17 registration agency shall send copies of the statement, fingerprints, and photographs to the department of
18 justice. The registration agency shall send the DNA sample to the department of justice for analysis and entry
19 of the DNA record into the DNA identification index. The registration agency shall require an offender given a
20 level 2 or level 3 designation to appear before the registration agency for a new photograph every year. The
21 information collected from the offender at the time of registration must include:

22 (a) the name of the offender and any aliases used by the offender;

23 (b) the offender's social security number;

24 (c) the residence information required by subsection (4);

25 (d) the name and address of any business or other place where the offender is or will be an
26 employee;

27 (e) the name and address of any school where the offender will be a student;

28 (f) the offender's driver's license number;

1 (g) the description and license number of any motor vehicle owned or operated by the offender; and

2 (h) all of the offender's e-mail addresses and social media screen names.

3 (4) (a) If, at the time of registration, the offender regularly resides in more than one county or
4 municipality, the offender shall register with the registration agency of each county or municipality in which the
5 offender resides. If an offender resides in more than one location within the same county or municipality, the
6 registration agency shall require the offender to provide all of the locations where the offender regularly resides
7 and to designate one of them as the offender's primary residence.

8 (b) Registration of more than one residence pursuant to this section is an exception from the single
9 residence rule provided in 1-1-215.

10 (5) A transient shall report monthly, in person, to the registration agency with which the transient
11 registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency
12 and during the normal business hours of that agency. On that day, the transient shall provide the registration
13 agency with the information listed in subsections (3)(a) through (3)(h). The registration agency to which the
14 transient reports may also require the transient to provide the locations where the transient stayed during the
15 previous 30 days and may stay during the next 30 days.

16 (6) (a) The department of justice shall mail a registration verification form:

17 (i) each 90 days to an offender designated as a level 3 offender under 46-23-509;

18 (ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and

19 (iii) each year to ~~a violent offender~~ or an offender designated as a level 1 offender under 46-23-509.

20 (b) If the offender is a transient, the department of justice shall mail the offender's registration
21 verification form to the registration agency with which the offender last registered.

22 (c) The form must require the offender's notarized signature. Within 10 days after receipt of the form,
23 the offender shall complete the form and return it to the registration agency where the offender last registered
24 or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county
25 or municipality in which the offender is located. A sexual offender shall return the form to the appropriate
26 registration agency in person, and at the time that the sexual offender returns the registration verification form,
27 the registration agency shall take a photograph of the offender and collect a DNA sample if one has not already
28 been collected. The registration agency shall send the DNA sample to the department of justice for analysis

1 and entry into the DNA identification index.

2 (7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a
3 copy of the form and most recent photograph to the department of justice.

4 (8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged
5 for registration may not exceed the actual costs of registration. The department of justice may adopt a rule
6 establishing fees to cover registration costs incurred by the department of justice in maintaining registration and
7 address verification records. The fees must be deposited in the general fund.

8 (9) The clerk of the district court in the county in which a person is convicted of a sexual ~~or violent~~
9 offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."
10

11 **Section 15.** Section 46-23-505, MCA, is amended to read:

12 **"46-23-505. Notice of change of name or residence or student, employment, or transient status**

13 **-- duty to inform -- forwarding of information.** (1) If an offender required to register under this part has a
14 change of name or residence or a change in student, employment, or transient status, the offender shall within
15 3 business days of the change appear in person and give notification of the change to the registration agency
16 with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the
17 registration agency for the county or municipality from which the offender is moving. The registration agency
18 shall require the offender to appear before the registration agency for a new photograph every year.

19 (2) If an offender required to register under this part is a transient, the offender shall provide written
20 notification to the registration agency with which the offender last registered or, if the offender initially registered
21 pursuant to 46-23-504(1)(b), shall provide notice within 3 business days to the registration agency in the county
22 or municipality in which the offender resides.

23 (3) Within 3 business days after receipt of the information concerning the new name or residence or a
24 change in the student, employment, or transient status, the registration agency shall forward the information to
25 the department of justice, which shall forward a copy of the information and photograph to:

26 (a) in the event of a change in residence, the registration agency for the county to which the offender
27 moves and, if the offender lives in a municipality, the registration agency for that municipality to which the
28 offender moves;

1 (b) in the event of a change of name or of student, employment, or transient status, the registration
2 agency of the appropriate county or municipality.

3 (4) If an offender who is required to register under this part is physically absent from the offender's
4 county of residence for more than 10 consecutive days, the offender shall register in the county where the
5 offender is physically located on the 11th day even if the offender claims to maintain a residence, as defined in
6 46-23-502, in that county. The offender shall register again in the offender's county of residence when the
7 offender returns to that county.

8 (5) If an offender is required to register under subsection (4), the offender shall register in any
9 subsequent county where the offender is present for more than 24 hours until the offender registers again in the
10 offender's county of residence."
11

12 **Section 16.** Section 46-23-506, MCA, is amended to read:

13 **"46-23-506. Duration of registration.** (1) A sexual offender required to register under this part shall
14 register for the remainder of the offender's life, except as provided in subsection ~~(3)~~(2) or during a period of time
15 during which the offender is in prison.

16 ~~.(2) A violent offender required to register under this part shall register:~~

17 ~~(a) for the 10 years following release from confinement or, if not confined following sentencing, for the~~
18 ~~10 years following the conclusion of the sentencing hearing, but the offender is not relieved of the duty to~~
19 ~~register until a petition is granted under subsection (3)(a); or~~

20 ~~(b) if convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep~~
21 ~~registration current or of a felony, for the remainder of the offender's life unless relieved of the duty to register~~
22 ~~as provided in subsection (3)(b).~~

23 ~~(3) (a) An offender required to register for 10 years under subsection (2)(a) may, after the 10 years~~
24 ~~have passed, petition the sentencing court or the district court for the judicial district in which the offender~~
25 ~~resides for an order relieving the offender of the duty to register. The petition must be served on the county~~
26 ~~attorney in the county where the petition is filed. The petition must be granted if the defendant has not been~~
27 ~~convicted under subsection (2)(b).~~

28 ~~(b)(2)~~ Except as provided in subsection ~~(5)~~(4), at any time after 10 years of registration for a level 1

1 sexual offender and at any time after 25 years of registration for a level 2 sexual offender, an offender may
2 petition the sentencing court or the district court for the judicial district in which the offender resides for an order
3 relieving the offender of the duty to register. The petition must be served on the county attorney in the county
4 where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition
5 to the victim of the last offense for which the offender was convicted if the victim's address is reasonably
6 available. The court shall consider any written or oral statements of the victim. The court may grant the petition
7 upon finding that:

- 8 (i) the offender has remained a law-abiding citizen; and
9 (ii) continued registration is not necessary for public protection and that relief from registration is in the
10 best interests of society.

11 ~~(4)~~(3) The offender may move that all or part of the proceedings in a hearing under subsection ~~(3)~~(2)
12 be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under
13 subsection ~~(3)~~(b) is closed to the public, the judge shall permit a victim of the offense to be present unless the
14 judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety
15 of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual
16 to provide support to the victim unless the judge determines that exclusion of the individual is necessary to
17 protect the offender's right to privacy.

18 ~~(5)~~(4) Subsection ~~(3)~~(2) does not apply to an offender who was convicted of:

- 19 (a) a violation of 45-5-503 if:
20 (i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another;
21 or
22 (ii) at the time the offense occurred, the victim was under 12 years of age;
23 (b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and
24 the offender was 3 or more years older than the victim;
25 (c) a second or subsequent sexual offense that requires registration; or
26 (d) a sexual offense and was designated as a sexually violent predator under 46-23-509."

27

28 **Section 17.** Section 46-23-507, MCA, is amended to read:

1 **"46-23-507. Penalty.** A sexual ~~or violent~~ offender who knowingly fails to register, verify registration, or
2 keep registration current under this part may be sentenced to a term of imprisonment of not more than 5 years
3 or may be fined not more than \$10,000, or both.

4 (2) Violent offenders who were convicted of failing to register, verify registration, or keep registration
5 current under this part after having successfully registered for 10 years, and whose conviction occurred before
6 the effective date of [this act] eliminating the violent offender registry shall have their conviction vacated.

7 (a) Within one year of passage of [this act], the department of justice shall provide notice to the
8 appropriate district court for each conviction described above; and

9 (b) Upon receiving notification from the department of justice, the district court shall, on its own motion,
10 vacate the offender's conviction for failing to register, verify registration, or keep registration current.

11 (3) When the court vacates a conviction under this section, the court shall:

12 (a) send a copy of the order vacating the conviction to the prosecutor and the department of justice;
13 and

14 (b) order the expungement of all records of arrest, investigation, and detention, and any court
15 proceedings that may be held by the court, the investigating law enforcement agency; or the department of
16 justice related to the conviction.

17 (4) The prosecutor and the department of justice shall inform the person whose conviction has been
18 vacated under this section that the conviction is vacated."

19
20 **Section 18.** Section 46-23-508, MCA, is amended to read:

21 **"46-23-508. Dissemination of information.** (1) Information maintained under this part is confidential
22 criminal justice information, as defined in 44-5-103, except that:

23 (a) the name and address of a registered sexual ~~or violent~~ offender are public criminal justice
24 information, as defined in 44-5-103; and

25 (b) the department of justice or the registration agency shall release any offender registration
26 information that it possesses relevant to the public if the department of justice or the registration agency
27 determines that a registered offender is a risk to the safety of the community and that disclosure of the
28 registration information that it possesses may protect the public and, at a minimum:

1 ~~(i) if the offender is also a violent offender, the department of justice shall and the registration agency~~
2 ~~may disseminate to the victim and the public:~~

3 ~~(A) the offender's name; and~~

4 ~~(B) the offenses for which the offender is required to register under this part;~~

5 ~~(ii)(i)~~ if an offender was given a level 1 designation under 46-23-509, the department of justice shall
6 and the registration agency may disseminate to the victim and the public:

7 (A) the offender's address;

8 (B) the name, photograph, and physical description of the offender;

9 (C) the offender's date of birth; and

10 (D) the offenses for which the offender is required to register under this part;

11 ~~(iii)(i)~~ if an offender was given a level 1 designation and committed an offense against a minor or was
12 given a level 2 designation under 46-23-509, the department of justice shall and the registration agency may
13 disseminate to the victim and the public:

14 (A) the offender's address;

15 (B) the type of victim targeted by the offense;

16 (C) the name, photograph, and physical description of the offender;

17 (D) the offender's date of birth;

18 (E) the license plate number and a description of any motor vehicle owned or operated by the
19 offender;

20 (F) the offenses for which the offender is required to register under this part; and

21 (G) any conditions imposed by the court upon the offender for the safety of the public; and

22 ~~(iv)(iii)~~ if an offender was given a level 3 designation under 46-23-509, the department of justice and
23 the registration agency shall give the victim and the public notification that includes the information contained in
24 subsection ~~(1)(b)(iii)(1)(b)(ii)~~. The notification must also include the date of the offender's release from
25 confinement or, if not confined, the date the offender was sentenced, with a notation that the offender was not
26 confined, and must include the community in which the offense occurred.

27 (c) prior to release of information under subsection (1)(b), a registration agency may, in its sole
28 discretion, request an in camera review by a district court of the determination by the registration agency under

1 subsection (1)(b). The court shall review a request under this subsection (1)(c) and shall, as soon as possible,
2 render its opinion so that release of the information is not delayed beyond release of the offender from
3 confinement.

4 (2) The identity of a victim of an offense for which registration is required under this part may not be
5 released by a registration agency without the permission of the victim.

6 (3) Dissemination to the public of information allowed or required by this section may be done by
7 newspaper, paper flyers, the internet, or any other media determined by the disseminating entity. In determining
8 the method of dissemination, the disseminating entity should consider the level of risk posed by the offender to
9 the public.

10 (4) The department of justice shall develop a model community notification policy to assist registration
11 agencies in implementing the dissemination provisions of this section."

12

13 **Section 19.** Section 46-23-510, MCA, is amended to read:

14 **"46-23-510. Expungement of records on reversal of conviction.** Upon final reversal of a conviction
15 of a sexual ~~or violent~~ offense, the sentencing court shall order the expungement of any records kept by a court,
16 law enforcement agency, or other state or local government agency under this part."

17

18 **Section 20.** Section 46-23-520, MCA, is amended to read:

19 **"46-23-520. Sexual ~~or violent~~ offender community education curriculum.** (1) The department of
20 justice shall develop a statewide community education curriculum regarding release of sexual ~~or violent~~
21 offenders into a community.

22 (2) The curriculum developed under subsection (1) must contain information:

23 (a) for communities and neighborhoods regarding the provisions of this part as it relates to sexual ~~or~~
24 ~~violent~~ offenders, including the rights of residents of a community into which a sexual ~~or violent~~ offender is
25 released and the duties and roles under this part of the department, law enforcement agencies, and the
26 offender;

27 (b) for families and children regarding personal safety, including potential warning signs that may help
28 to avoid victimization; and

1 (c) for communities, neighborhoods, families, and children regarding the restrictions imposed by 45-5-
2 513.

3 (3) The curriculum developed under this section must be made available to law enforcement
4 agencies, school districts, local governments, and other entities determined by the department of justice to be
5 in a position to educate the public on the subject of the release of a sexual ~~or violent~~ offender into a community.
6 The curriculum may be disseminated by any appropriate means, written or electronic, including by the internet."

7
8

- END -

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