*** Bill No. ***

Introduced By *********

By Request of the Department of Public Health & Human Services

A Bill for an Act entitled: "An Act Amending the Definition of Neglect to add definition for Self-Neglect; AMENDING SECTION 52-3-803."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 52-3-803, MCA, is amended to read:

"**52-3-803. Definitions.** As used in this part, the following definitions apply:

(1) "Abuse" means:

(a) the infliction of physical or mental injury;

(b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of a vulnerable adult without lawful authority. A declaration made pursuant to 50-9-103 constitutes lawful authority.

(c) the causing of personal degradation of a vulnerable adult in a place where the vulnerable adult has a reasonable expectation of privacy.

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

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(3) "Exploitation" means:

(a) the unreasonable use of a vulnerable adult or of a power of attorney, conservatorship, or guardianship with regard to a vulnerable adult in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property;

(b) an act taken by a person who has the trust and confidence of a vulnerable adult to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property;

(c) the unreasonable use of a vulnerable adult or of a power of attorney, conservatorship, or guardianship with regard to a vulnerable adult done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the vulnerable adult's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of the vulnerable adult's money, assets, or property.

(4) "Incapacitated person" has the meaning provided in 72-5-101.

(5) "Long-term care facility" has the meaning provided in 50-5-101.

(6) "Mental injury" means an identifiable and substantial impairment of a person's intellectual or psychological functioning or well-being.

(7) "Neglect" means:

(a) the failure of a person who has assumed legal responsibility or a contractual obligation for caring for a vulnerable adult or who has voluntarily assumed

responsibility for ~~the~~ a vulnerable adult's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the vulnerable adult~~.~~; or

(b) a vulnerable adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

(i) obtaining essential food, clothing, shelter, and medical care;

(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(iii) managing one's own financial affairs.

(8) "Personal degradation" means publication or distribution of a printed or electronic photograph or video of a vulnerable adult when the person publishing or distributing intends to demean or humiliate the vulnerable adult or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person. Personal degradation does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement

purposes, as part of an investigation, or in accordance with a facility or program's confidentiality policy and release of information or consent policy.

(9) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

(10) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, incest, or sexual abuse of children as described in Title 45, chapter 5, part 5, and Title 45, chapter 8, part 2.

(11) "Vulnerable adult" means a person who:

(a) is 60 years of age or older; or

(b) is 18 years of age or older and:

(i) is a person with a physical or mental impairment that substantially limits or restricts the person's ability to provide for their own care or protection; or

(ii) has a developmental disability as defined in 53-20-102."

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