

1 HOUSE BILL NO. 191

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8 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE OFFENSE OF
9 ENDANGERING THE WELFARE OF CHILDREN; PROVIDING THAT IT IS AN OFFENSE TO COMMIT
10 CERTAIN CRIMES RELATED TO PARTNER OR FAMILY MEMBER ASSAULT IN THE PRESENCE OF A
11 CHILD; PROVIDING A PENALTY; AMENDING SECTION 45-5-622, MCA; AND PROVIDING AN
12 APPLICABILITY DATE."

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

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16 **Section 1.** Section 45-5-622, MCA, is amended to read:

17 **"45-5-622. Endangering welfare of children.** (1) (a) A parent, guardian, or other person supervising
18 the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the
19 parent, guardian, or other person knowingly endangers the child's welfare by violating a duty of care, protection,
20 or support.

21 (b) A parent or guardian of a child does not violate a duty of care, protection, or support by
22 permitting the child to engage in independent activities consistent with the child's intellectual, emotional, and
23 physical maturity, including:

- 24 (i) traveling to and from school by walking, running, bicycling, public transit, or other means;
25 (ii) traveling to and from nearby commercial or recreational facilities;
26 (iii) engaging in outdoor play;
27 (iv) remaining for less than 15 minutes in a vehicle if the temperature inside the vehicle is not or will
28 not become dangerously hot or cold;

1 (v) remaining at home if the parent or guardian:

2 (A) returns home the same day on which the parent or guardian gives the child permission to
3 remain at home;

4 (B) makes provisions for the child to contact the parent or guardian; and

5 (C) makes provisions for any reasonably foreseeable emergency.

6 (2) Except as provided in 16-6-305, a parent or guardian or any person who is 18 years of age or
7 older, whether or not the parent, guardian, or other person is supervising the welfare of the child, commits the
8 offense of endangering the welfare of children if the parent, guardian, or other person knowingly contributes to
9 the delinquency of a child less than:

10 (a) 18 years old by:

11 (i) supplying or encouraging the use of an intoxicating substance by the child; or

12 (ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or

13 (b) 16 years old by assisting, promoting, or encouraging the child to:

14 (i) abandon the child's place of residence without the consent of the child's parents or guardian; or

15 (ii) engage in sexual conduct.

16 (3) A person, whether or not the person is supervising the welfare of a child less than 18 years of
17 age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a
18 building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present,
19 in a room offered to the public for overnight accommodation, or in any multiple-unit residential building,
20 knowingly:

21 (a) produces or manufactures methamphetamine or attempts to produce or manufacture
22 methamphetamine;

23 (b) possesses any material, compound, mixture, or preparation that contains any combination of
24 the items listed in 45-9-107 with intent to manufacture methamphetamine; or

25 (c) causes or permits a child to inhale, be exposed to, have contact with, or ingest
26 methamphetamine or be exposed to or have contact with methamphetamine paraphernalia.

27 (4) (a) A person commits the offense of endangering the welfare of a child if the person also
28 knowingly commits an offense identified in 45-5-202, 45-5-206, 45-5-213, or 45-5-215 against a partner or

1 family member in the presence of a child less than 18 years of age.

2 (b) For the purposes of this subsection (4), the following definitions apply:

3 (i) "Family member" has the same meaning as provided in 45-5-206.

4 (ii) "In the presence of a child" means in the physical presence of a child or having knowledge that
5 the child may see or hear an act listed in this subsection (4).

6 (iii) "Partner" has the same meaning as provided in 45-5-206.

7 (c) Only the predominant aggressor, as determined by 46-6-311, may be charged under this
8 subsection (4).

9 (d) A charge under this subsection (4) is a separate offense and may be charged in addition to 45-
10 5-202, 45-5-206, 45-5-213, or 45-5-215. Each child identified in subsection (4)(a) may form the basis for
11 additional charges under this subsection (4).

12 (e) A person may be charged under this subsection (4) regardless of the child's relationship to the
13 person.

14 ~~(4)(5)~~ A parent, guardian, or other person supervising the welfare of a child less than 16 years of age
15 may verbally or in writing request a person who is 18 years of age or older and who has no legal right of
16 supervision or control over the child to stop contacting the child if the requester believes that the contact is not
17 in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person
18 supervising the welfare of the child may petition or the county attorney may upon the person's request petition
19 for an order of protection under Title 40, chapter 15. To the extent that they are consistent with this subsection,
20 the provisions of Title 40, chapter 15, apply. A person who purposely or knowingly violates an order of
21 protection commits the offense of endangering the welfare of children and upon conviction shall be sentenced
22 as provided in subsection ~~(5)(a)~~ ~~(6)(a)~~.

23 ~~(5)(6)~~ (a) Except as provided in subsection ~~(5)(b)~~ ~~(6)(b)~~ or ~~(6)(c)~~, a person convicted of endangering
24 the welfare of children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any
25 term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of
26 children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to
27 exceed 6 months, or both.

28 (b) A person convicted under subsection (3) is guilty of a felony and shall be imprisoned in the

1 state prison for a term not to exceed 5 years and may be fined an amount not to exceed \$10,000, or both. If a
2 child suffers serious bodily injury, the offender shall be fined an amount not to exceed \$25,000 or be imprisoned
3 for a term not to exceed 10 years, or both. Prosecution or conviction of a violation of subsection (3) does not
4 bar prosecution or conviction for any other crime committed by the offender as part of the same conduct.

5 (c) A person convicted under subsection (4) is guilty of a misdemeanor and shall be fined an
6 amount not less than \$100 or more than \$1,000 and be imprisoned in the county jail not less than 72 hours or
7 more than 1 year.

8 (6)(7) On the issue of whether there has been a violation of the duty of care, protection, and support,
9 the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of
10 unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and
11 food; and evidence of past bodily injury.

12 (7)(8) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of
13 endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the
14 defendant has endangered."
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16 NEW SECTION. Section 2. Applicability. [This act] applies to offenses committed on or after [the
17 effective date of this act].
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