

SENATE BILL NO. 88

INTRODUCED BY D. SANDS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE CRIMES OF VIOLENCE AND INCLUDING THE CRIMES OF AGGRAVATED SEXUAL INTERCOURSE WITHOUT CONSENT AND STRANGULATION IN THE DEFINITION OF "CRIME OF VIOLENCE"; AND AMENDING SECTION 46-18-104, MCA."

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

Section 1. Section 46-18-104, MCA, is amended to read:

"46-18-104. Definitions. As used in 46-18-101, 46-18-105, 46-18-201, 46-18-225, and this section, unless the context requires otherwise, the following definitions apply:

(1) "Community corrections" or "community corrections facility or program" means a community corrections facility or program as defined in 53-30-303.

(2) (a) "Crime of violence" means:

(i) a crime in which an offender uses or possesses and threatens to use a deadly weapon during the commission or attempted commission of a crime;

(ii) a crime in which the offender causes serious bodily injury or death to a person other than the offender;

or

(iii) an offense under:

(A) 45-5-215;

~~(B)~~ (B) 45-5-502 for which the maximum potential sentence is life imprisonment or imprisonment in a state prison for a term exceeding 1 year;

~~(C)~~ (C) 45-5-503, except as provided in subsection (2)(b) of this section; ~~or~~

~~(D)~~ (D) 45-5-507 if the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing the offense; ~~or~~

(E) 45-5-508.

(b) In a prosecution under 45-5-503, if the sexual intercourse was without consent based solely on the victim's age, the victim willingly participated, and the offender is not more than 3 years older than the victim, the

1 offense is not a crime of violence for purposes of this section.

2 (3) "Nonviolent felony offender" means a person who has entered a plea of guilty or nolo contendere to
3 a felony offense other than a crime of violence or who has been convicted of a felony offense other than a crime
4 of violence.

5 (4) "Restorative justice" has the meaning provided in 2-15-2013."

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