

1 HOUSE BILL NO. 287

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8 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DANGEROUS DRUGS;
9 PROVIDING ENHANCED PENALTIES FOR POSSESSING OR USING A FIREARM IN THE COMMISSION
10 OF CERTAIN DRUG CRIMES; AND AMENDING SECTIONS 45-9-101, 45-9-103, AND 46-18-231, MCA."

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

13
14 **Section 1.** Section 45-9-101, MCA, is amended to read:

15 **"45-9-101. Criminal distribution of dangerous drugs.** (1) Except as provided in Title 16, chapter
16 12, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter,
17 exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-
18 32-101.

19 (2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing
20 any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102.

21 (3) (a) A person convicted of criminal distribution of dangerous drugs not otherwise provided
22 for in subsection (1), (2), (4), (5), or (6) shall be imprisoned in the state prison for a term not to exceed 25 years
23 or be fined an amount of not more than \$50,000, or both.

24 (b) If the provisions of 46-1-401 are complied with, a person who is found guilty of this offense and
25 who, while engaging in the commission of the offense, knowingly possesses or uses a firearm shall, in addition
26 to the penalty provided for the commission of the underlying offense, be sentenced to a term of imprisonment in
27 the state prison of not less than 2 years or more than 10 years, except as provided in 46-18-222.

28 (4) A person who was an adult at the time of distribution and who is convicted of criminal

1 distribution of dangerous drugs to a minor shall be sentenced as follows:

2 (a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed
3 40 years and may be fined not more than \$50,000.

4 (b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a
5 term not to exceed life and may be fined not more than \$50,000.

6 (5) If the offense charged results in the death of an individual from the use of any dangerous drug
7 that was distributed, the person shall be imprisoned in the state prison for a term of not more than 100 years
8 and may be fined not more than \$100,000.

9 (6) A person convicted of criminal distribution of dangerous drugs that involves distribution of
10 fentanyl, carfentanil, sufentanil, alfentanil, or a fentanyl derivative, and who possessed or distributed a mixture
11 containing one or more of these substances in a combined amount greater than 100 pills or a combined weight
12 greater than 10 grams in a form such as a powder, solid, or liquid, inclusive of any additives or cutting agents,
13 shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years or may be fined
14 not more than \$50,000, or both. The court may not suspend execution or defer imposition of the first 2 years of
15 the sentence, except as provided in 46-18-222(1) through (4), and during the first 2 years of imprisonment, the
16 offender is not eligible for parole.

17 (7) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course
18 of a professional practice are exempt from this section."

19

20 **Section 2.** Section 45-9-103, MCA, is amended to read:

21 **"45-9-103. Criminal possession with intent to distribute.** (1) Except as provided in Title 16,
22 chapter 12, a person commits the offense of criminal possession with intent to distribute if the person
23 possesses with intent to distribute any dangerous drug as defined in 50-32-101 in an amount greater than
24 permitted or for which a penalty is not specified under Title 16, chapter 12.

25 (2) (a) Except as provided in subsection (3), a person convicted of criminal possession with intent
26 to distribute shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount
27 not to exceed \$50,000, or both.

28 (b) If the provisions of 46-1-401 are complied with, a person who is found guilty of this offense and

1 who, while engaging in the commission of the offense, knowingly possesses or uses a firearm shall, in addition
2 to the penalty provided for the commission of the underlying offense, be sentenced to a term of imprisonment in
3 the state prison of not less than 2 years or more than 10 years, except as provided in 46-18-222.

4 (3) A person convicted of criminal possession with intent to distribute fentanyl shall be imprisoned
5 in the state prison for a term of not less than 2 years or more than 40 years or may be fined not more than
6 \$50,000, or both. The court may not suspend execution or defer imposition of the first 2 years of the sentence,
7 except as provided in 46-18-222(1) through (4), and during the first 2 years of imprisonment, the offender is not
8 eligible for parole.

9 (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course
10 of a professional practice are exempt from this section."
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12 **Section 3.** Section 46-18-231, MCA, is amended to read:

13 **"46-18-231. Fines in felony and misdemeanor cases.** (1) (a) Except as provided in subsection
14 (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found
15 guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in
16 lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3).

17 (b) For those crimes for which penalties are provided in the following sections, a fine may be
18 imposed in accordance with subsection (3) in addition to a sentence of imprisonment:

- 19 (i) 45-5-103(4), mitigated deliberate homicide;
20 (ii) 45-5-202, aggravated assault;
21 (iii) 45-5-213, assault with a weapon;
22 (iv) 45-5-302(2), kidnapping;
23 (v) 45-5-303(2), aggravated kidnapping;
24 (vi) 45-5-401(2), robbery;
25 (vii) 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or
26 more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual
27 assault;
28 (viii) 45-5-502(4), sexual assault when the victim is a client receiving psychotherapy services and

1 the offender is providing or purporting to provide psychotherapy services to the victim;

2 (ix) 45-5-503(2) through (5), sexual intercourse without consent;

3 (x) 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years
4 of age or older at the time of the offense;

5 (xi) 45-5-508, aggravated sexual intercourse without consent;

6 (xii) 45-5-601(3), prostitution when the person patronized or engaging in prostitution was a child
7 and the offender was 18 years of age or older at the time of the offense;

8 (xiii) 45-5-625(4), sexual abuse of children;

9 (xiv) 45-5-702, 45-5-703, 45-5-705, 45-5-706, or 45-5-711, sex trafficking, labor trafficking,
10 patronizing a victim of sex trafficking, aggravated sex trafficking, or child sex trafficking;

11 (xv) 45-9-101(3), ~~criminal possession with intent to distribute a dangerous drug~~ criminal distribution
12 of dangerous drugs; and

13 (xvi) 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school
14 property.

15 (2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been
16 found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge
17 may impose a fine only in accordance with subsection (3).

18 (3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will
19 be able to pay the fine and interest. In determining the amount and method of payment, the sentencing judge
20 shall take into account the nature of the crime committed, the financial resources of the offender, and the nature
21 of the burden that payment of the fine and interest will impose.

22 (4) Except as provided in subsection (5), a fine levied under this section in a felony case shall be in
23 an amount fixed by the sentencing judge not to exceed \$50,000.

24 (5) If an offender is out of compliance with court-mandated payments for 6 months or more,
25 interest must accrue on a fine levied under this section at a rate of 3%. The interest may not compound.
26 Interest only begins to accrue when the judgment is placed for collection with a private person or entity as
27 provided in 3-10-601, 25-30-102, or 46-17-303."

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