

SENATE BILL NO. 296

INTRODUCED BY M. YAKAWICH, C. NEUMANN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN ENHANCED PENALTY FOR A PERSON EMPLOYED OR VOLUNTEERING IN A CAREGIVING FACILITY WHO IS FOUND GUILTY OF AN OFFENSE AGAINST A VULNERABLE PERSON IN THAT CAREGIVING FACILITY; PROVIDING FOR "ALAN'S LAW"; AND PROVIDING DEFINITIONS."

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

NEW SECTION. Section 1. **Short title.** [Sections 1 and 2] may be cited as "Alan's Law".

NEW SECTION. Section 2. **Additional sentence for offenses committed against a vulnerable person.** (1) If the provisions of 46-1-401 are complied with, an individual who is found guilty of ~~an offense a misdemeanor offense under Title 45, chapter 5, or a felony offense~~ while employed or volunteering in a caregiving facility and who committed the offense against a vulnerable person in the facility in which the individual was employed or volunteering shall, in addition to the punishment provided for the commission of the underlying offense, be sentenced to a term of imprisonment in the state prison of not less than 1 year or more than 10 years, except as provided in 46-18-222.

~~(2) — The imposition or execution of the minimum sentences prescribed by this section may not be deferred or suspended, except as provided in 46-18-222.~~

~~(3)(2)~~ An additional sentence prescribed by this section must run consecutively to the sentence provided for the offense.

~~(4)(3)~~ For the purposes of this section, the following definitions apply:

(a) "Caregiving facility" means:

(i) a mental health facility as provided in 53-21-102;

(ii) an assisted living facility licensed under 50-5-227;

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(iii) a long-term care facility, an adult day-care center, a mental health center, a medical assistance facility, or a nonprofit health care facility as provided in 50-5-101;

(iv) a community group home for developmentally disabled, mentally disabled, or severely disabled persons that does not provide skilled or intermediate nursing care;

(v) a licensed adult foster family care home;

(vi) a halfway house operated in accordance with regulations of the department of public health and human services for the rehabilitation of alcoholics or drug-dependent persons;

(vii) a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or a youth group home as provided in 52-2-602;

(viii) a day-care center, a day-care facility, a family day-care home, or a group day-care home as provided in 52-2-703; or

(ix) a public or nonpublic school.

(b) "Vulnerable person" means:

(i) a child; or

(ii) a vulnerable adult as provided in 52-3-803(11)(b); or

~~(iii) an incapacitated person as provided in 72-5-101.~~

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [sections 1 and 2].

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