

Montana Criminal Law Update 2015 Legislative Session¹

- **HOUSE BILL NO. 32:** Criminalize the Misuse of Official Criminal Justice Information – This bill establishes misdemeanor penalties in the prosecution of individuals who abuse their access to confidential criminal justice information. Effective October 1, 2015.
- **HOUSE BILL NO. 88:** Generally Revised Laws Relating to Sex Offender Registration – Following the development of the AG’s long-term sex offender tier designation initiative, it became clear that Montana could go further in placing more of the tier designation burden for out-of-state and federal offenders on the offenders themselves. Other states require sex offenders to do more in terms of sharing evaluations. In addition, the Division of Criminal Investigations (DCI) has recommended other SVOR changes to allow the State to collect more information from offenders (screen names, email addresses). Effective October 1, 2015.
- **HOUSE BILL NO. 89:** Generally Revised Human Trafficking Laws – The Legislature passed new laws criminalizing human trafficking. The final version of the bill did not contain some key elements, such as forfeiture of assets derived from human trafficking activities. In addition, a new model Human Trafficking Act was developed following adjournment that should serve as a basis for a revised version in Montana. Effective July 1, 2015.
- **HOUSE BILL NO. 111:** To ensure that repeat DUI offenders are sentenced long enough to complete treatment in the WATCH program, the Legislature extended the penalty range judges may use to sentence offenders to a maximum of two years – up from just 13 months. Effective October 1, 2015.
- **HOUSE BILL NO. 143:** Suspends a defendant's obligation to make payments for the cost of counsel is suspended during periods of incarceration. Effective October 1, 2015.
- **HOUSE BILL NO. 150:** Revises penalties for harassment of hunters and wildlife, hunting from a highway, hunting from a vehicle, and use of a vehicle while hunting. Effective October 1, 2015.
- **HOUSE BILL NO. 186:** Revises Laws Related to Protecting Victims of Sexual Offenses - HB 186 requires the sentencing court to include a “no contact” condition in the judgment if requested by a victim or immediate family member of the victim. Our interpretation of this bill is that the victim or immediate family member can only request the no contact on their own behalf, unless the victim is a minor. Effective October 1, 2015.
- **HOUSE BILL NO. 195:** Removes required Court approval for deferred prosecutions for filed charges and replaces with a notice requirement. Effective February 27, 2015.

¹ This document was prepared by the Montana Attorney General’s Office following the 2015 legislative session.

- **HOUSE BILL NO. 197:** Creates a penalty enhancement of 2 to 20 years, consecutive, for a person who commits a forcible felony on a woman who the Defendant knows or should have known was pregnant. Effective October 1, 2015.
- **HOUSE BILL NO. 207:** Extends the prohibition on court-ordered disclosures of information gathered by the news media to cover any “electronic communication services” used by the Media. Effective October 1, 2015.
- **HOUSE BILL NO. 219:** Creates felony penalties for “high risk” sex offenders who violate specified geographic restrictions. Effective May 5, 2015. Retroactive “to sexually violent predators who have been convicted of a sexual offense against a victim 12 years of age or younger on or before” May 5, 2015.
- **HOUSE BILL NO. 410:** Generally Revises Laws Related on the Exploitation of Vulnerable Persons - HB 410 moves the offense of financial exploitation of an older person or a person with a developmental disability from Mont. Code Ann. § 52-3-825 to its own section and creates more specific definitions of the scope and elements of the crime. This bill also creates a hearsay exception for the statements of older persons, incapacitated persons, or individuals with developmental disabilities who are victims or witnesses to this crime. Effective October 1, 2015.
- **HOUSE BILL NO. 412:** Generally Revises Minor in Possession Laws – Underage drinkers may not be prosecuted with minor in possession violations if the person seeks medical treatment for themselves or another person as a result of consuming intoxicating substances. Effective October 1, 2015.
- **HOUSE BILL NO. 463:** Revises Laws Related to Asset Forfeiture – As part of a national movement to curb civil asset forfeitures in drug trafficking and manufacturing cases, the Legislature passed a bill to require a criminal conviction before forfeiture, allows cash seized to be used on criminal defense, raises the standard from preponderance of the evidence to clear and convincing evidence and more. Effective July 1, 2015.
- **HOUSE BILL NO. 466:** Authorizes the State to be reimbursed for extradition costs as part of restitution. Effective March 20, 2015.
- **HOUSE BILL NO. 482:** Revises Laws Related to Who Must Register as a Sex Offender - HB 482 makes a narrow expansion on the SVOR registry to require a person convicted of a misdemeanor sexual assault to register as a sex offender if that person was a “licensed professional” (such as a massage therapist) and committed the sexual assault during any treatment, consultation, interview or evaluation of a person’s mental condition, ailment disease or injury. Effective April 2, 2015.

- **HOUSE BILL NO. 488:** Generally Revises DUI Laws – This law touches several areas of the DUI code, including increasing statutory minimum fines for DUIs, harmonizing the Aggravated DUI code with the rest of DUI and establishing an administrative fee for people who refuse to provide a breath sample. Effective May 5, 2015.
- **HOUSE BILL NO. 516:** Permits non-incarcerated felons to petition for DNA testing; lowers standards for the granting of a petition for DNA testing; creates broad discovery powers; grants district courts broad authority in granting relief. Effective April 27, 2015.
- **SENATE BILL NO. 21:** Provides for automatic forfeiture of hunting, fishing and trapping licenses and privileges for unlawful procurement or possession of a license, permit or tag. Effective October 1, 2015.
- **SENATE BILL NO. 26:** Clarifies Existing Law Regarding Search Warrants Technology – Under current law, officers who have Internet access in their patrol cars or offices should be able to create affidavits in support of a warrant and submit it to a judge via an e-mail request. Police say using email saves valuable investigation time and helps them quickly collect and preserve evidence. Effective February 17, 2015.
- **SENATE BILL NO. 50:** Update Laws on Surreptitious Viewing – Several prosecutors have noted problems with the language in the current surreptitious viewing statute. The language is out-of-date and doesn't take into account members of the public recording others surreptitiously through cell phone cameras and other means. Effective February 17, 2015.
- **SENATE BILL NO. 60:** Revising indecent exposure laws - Currently, first offense indecent exposure in Montana is a misdemeanor regardless of who the victim is. Sexual predators often use the Internet to groom prospective victims. This bill would make a felony of the knowing or purposeful exposure of the person's genitals, including through electronic communications, to a person the offender believes to be a minor. Effective October 1, 2015.
- **SENATE BILL NO. 66:** Generally revises tobacco laws, including criminal liability for sale to minors or minors in possession of tobacco, to include alternative nicotine or vapor products (e-cigs). Effective January 1, 2016.
- **SENATE BILL NO. 93:** Creates a restricted driving permit for persons to drive in Montana who have a revoked license out of another state. Effective July 1, 2015.
- **SENATE BILL NO. 209:** Declares that the data on a vehicle's event data recorder is the exclusive property of the owners of the vehicle and that a warrant or exigent circumstance is required to obtain the data. Effective October 1, 2015.

- **SENATE BILL NO. 219:** Revises Laws Related to Expunging Certain Records – This new law requires an automatic dismissal of charges following the completion of a deferred imposition of sentence for a felony conviction. Effective October 1, 2015.

- **SENATE BILL NO. 224:** Commission on Criminal Justice System – This diverse commission will look at sentencing practices and policies while also developing recommendations to the Legislature for the 2017 Session. Effective April 23, 2015.

- **SENATE BILL NO. 318:** Revises Laws Relating to Partner Family Member Assault - SB 318 extends courts authority to issue a standing “no contact” order on persons charged with a PFMA to persons arrested or charged with a PFMA, assault with a weapon against a partner or family member, or aggravated assault against a partner or family member. The bill also includes a violation of a “no contact” order as one of the offenses for which a person may not be released on bail without first appearing before the judge. Effective October 1, 2015.