

# Montana Code Annotated 2023

## Title 52 Family Services

### Chapter 3 Adult Services

#### Part 8 Montana Vulnerable Adult Prevention of Abuse Act

52-3-801 Short Title

52-3-802 Legislative Findings and Purpose

52-3-803 Definitions

52-3-804 Duties of Department

52-3-805 Adult Protective Service Teams

*52-3-806 Through 52-3-810 Reserved*

52-3-811 Reports

52-3-812 Content of Report

52-3-813 Confidentiality

52-3-814 Immunity from Civil and Criminal Liability

52-3-815 Evidence of Abuse, Sexual Abuse, Neglect, Or Exploitation to Be Gathered And Submitted

*52-3-816 Through 52-3-820 Reserved*

52-3-821 Admissibility of Evidence

*52-3-822 Through 52-3-824 Reserved*

52-3-825 Penalties

**52-3-801 Short Title** This part may be cited as the "Montana Vulnerable Adult Prevention of Abuse Act".

History: En. Sec. 1, Ch. 623, L. 1983; amd. Sec. 1, Ch. 198, L. 1989; Sec. 53-5-501, MCA 1989; redes. 52-3-801 by Code Commissioner, 1991; amd. Sec. 21, Ch. 255, L. 1995; amd. Sec. 17, Ch. 12, L. 2023.

**52-3-802 Legislative Findings and Purpose** The legislature finds that a need exists to provide for cooperation among law enforcement officials and agencies, courts, and state and county agencies providing human services in preventing the abuse, sexual abuse, neglect, and exploitation of Montana's vulnerable adults through the identification, reporting, and prosecution of acts of abuse, sexual abuse, neglect, and exploitation.

History: En. Sec. 2, Ch. 623, L. 1983; amd. Sec. 2, Ch. 198, L. 1989; Sec. 53-5-502, MCA 1989; redes. 52-3-802 by Code Commissioner, 1991; amd. Sec. 1, Ch. 167, L. 1993; amd. Sec. 21, Ch. 255, L. 1995; amd. Sec. 1, Ch. 196, L. 1999; amd. Sec. 18, Ch. 12, L. 2023.

**52-3-803 Definitions** As used in this part, the following definitions apply:

(1) "Abuse" means:

(a) the infliction of physical or mental injury.

(b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of a vulnerable adult without lawful authority. A declaration made pursuant to **50-9-103** constitutes lawful authority.

(c) the causing of personal degradation of a vulnerable adult in a place where the vulnerable adult has a reasonable expectation of privacy.

(2) "Department" means the department of public health and human services provided for in **2-15-2201**.

(3) "Exploitation" means:

(a) the unreasonable use of a vulnerable adult or of a power of attorney, conservatorship, or guardianship with regard to a vulnerable adult in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property;

(b) an act taken by a person who has the trust and confidence of a vulnerable adult to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of or interest in the vulnerable adult's money, assets, or property;

(c) the unreasonable use of a vulnerable adult or of a power of attorney, conservatorship, or guardianship with regard to a vulnerable adult done in the course of

an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the vulnerable adult's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of the vulnerable adult's money, assets, or property.

(4) "Incapacitated person" has the meaning provided in **72-5-101**.

(5) "Long-term care facility" has the meaning provided in **50-5-101**.

(6) "Mental injury" means an identifiable and substantial impairment of a person's intellectual or psychological functioning or well-being.

(7) "Neglect" means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for a vulnerable adult or who has voluntarily assumed responsibility for a vulnerable adult's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the vulnerable adult.

(8) "Personal degradation" means publication or distribution of a printed or electronic photograph or video of a vulnerable adult when the person publishing or distributing intends to demean or humiliate the vulnerable adult or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person. Personal degradation does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement purposes, as part of an investigation, or in accordance with a facility or program's confidentiality policy and release of information or consent policy.

(9) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

(10) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, incest, or sexual abuse of children as described in Title 45, chapter 5, part 5, and Title 45, chapter 8, part 2.

(11) "Vulnerable adult" means a person who:

(a) is 60 years of age or older; or

(b) is 18 years of age or older and:

(i) is a person with a physical or mental impairment that substantially limits or restricts the person's ability to provide for their own care or protection; or

(ii) has a developmental disability as defined in **53-20-102**.

History: En. Sec. 3, Ch. 623, L. 1983; amd. Sec. 1, Ch. 668, L. 1985; amd. Sec. 111, Ch. 370, L. 1987; amd. Sec. 2, Ch. 450, L. 1987; amd. Sec. 3, Ch. 198, L. 1989; Sec. 53-5-503, MCA 1989; redes. 52-3-803 by Code Commissioner, 1991; amd. Sec. 1, Ch. 716, L. 1991; amd. Sec. 2, Ch. 167, L. 1993; amd. Sec. 1, Ch. 426, L. 1993; amd. Sec. 3, Ch. 465, L. 1995; amd. Sec. 2, Ch. 196, L. 1999; amd. Sec. 1, Ch. 350, L. 2003; amd. Sec. 9, Ch. 493, L. 2003; amd. Sec. 1, Ch. 158, L. 2013; amd. Sec. 7, Ch. 225, L. 2013; amd. Sec. 1, Ch. 329, L. 2019; amd. Sec. 19, Ch. 12, L.

**52-3-804 Duties of Department** (1) The department shall investigate reports of abuse, sexual abuse, neglect, or exploitation received pursuant to **52-3-811(1)(a)**.

(2) The department shall prepare an annual report of the information obtained pursuant to the reporting requirement of this part.

(3) The department shall, when appropriate, provide protective services under Title 52, chapter 3, part 2, for a vulnerable adult alleged to have been abused, sexually abused, neglected, or exploited.

(4) If a vulnerable adult alleged to be abused, sexually abused, neglected, or exploited pursuant to this part or the vulnerable adult's caretaker refuses to allow a representative of the department entrance to the premises for the purpose of investigating a report made pursuant to **52-3-811(1)(a)**, the district court in the county where the vulnerable adult is found may order a law enforcement officer or a department representative to enter the premises to conduct an investigation on finding that there is probable cause to believe that the vulnerable adult is abused, sexually abused, neglected, or exploited.

(5) If a representative of the department has reasonable grounds to believe that a vulnerable adult alleged to be abused, sexually abused, neglected, or exploited is suffering from abuse, sexual abuse, neglect, or exploitation that presents a substantial risk of death or serious physical injury, the department may:

(a) provide voluntary protective services as provided in subsection (3); or

(b) if the department representative has reasonable grounds to believe that the vulnerable adult is an incapacitated person, provide emergency protective services as follows:

(i) arrange or facilitate an appropriate emergency protective service placement.

(ii) transport or arrange for the transport of the vulnerable adult to the appropriate placement.

(iii) not later than 2 judicial days following placement of the vulnerable adult, either:

(A) provide voluntary protective services as provided under subsection (3); or

(B) petition the district court to act as temporary guardian or appoint a temporary guardian as provided in **72-5-317**.

History: En. Sec. 9, Ch. 623, L. 1983; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 4, Ch. 198, L. 1989; Sec. 53-5-504, MCA 1989; redes. 52-3-804 by Code Commissioner, 1991; amd. Sec. 2, Ch. 716, L. 1991; amd. Sec. 3, Ch. 167, L. 1993; amd. Sec. 4, Ch. 465, L. 1995; amd. Sec. 363, Ch. 546, L. 1995; amd. Sec. 3, Ch. 196, L. 1999; amd. Sec. 20, Ch. 12, L. 2023.

**52-3-805 Adult Protective Service Teams** (1) The county attorney or the department shall convene one or more temporary or permanent interdisciplinary adult protective service teams. The teams shall assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to vulnerable adults who are victims of abuse, sexual abuse, neglect, or exploitation. The supervisor of the adult

protective services unit of the department or the department's designee shall serve as the team's coordinator. Members must include an adult protection specialist, a member of a local law enforcement agency, a representative of the medical profession, and a county attorney or the county attorney's designee, who is an attorney. Members may include other appropriate persons designated by the county attorney or the supervisor of the adult protective services unit of the department.

(2) When the team considers a matter involving an adult with developmental disabilities in the care of a person providing developmental disabilities services, the team must also include a provider of developmental disability services other than the provider involved in the matter under review. The team shall make a report to the county attorney that contains a recommendation concerning any criminal prosecution to be brought pursuant to this part.

History: En. Sec. 1, Ch. 662, L. 1985; amd. Sec. 12, Ch. 609, L. 1987; Sec. 53-5-505, MCA 1989; redes. 52-3-805 by Code Commissioner, 1991; amd. Sec. 4, Ch. 167, L. 1993; amd. Sec. 2, Ch. 421, L. 1993; amd. Sec. 2, Ch. 426, L. 1993; amd. Sec. 21, Ch. 255, L. 1995; amd. Sec. 364, Ch. 546, L. 1995; amd. Sec. 21, Ch. 12, L. 2023.

**52-3-811 Reports** (1) When the professionals and other persons listed in subsection (3) know or have reasonable cause to suspect that a vulnerable adult known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation, they shall:

(a) if the vulnerable adult is not a resident of a long-term care facility, report the matter to:

(i) the department or its local affiliate; or

(ii) the county attorney of the county in which the vulnerable adult resides or in which the acts that are the subject of the report occurred.

(b) if the vulnerable adult is a resident of a long-term care facility, report the matter to the long-term care ombudsman appointed under the provisions of 42 U.S.C. 3027(a)(12) and to the department. The department shall investigate the matter pursuant to its authority in **50-5-204** and **52-3-804** and, if it finds any allegations of abuse, sexual abuse, neglect, or exploitation contained in the report to be substantially true, forward a copy of the report to the county attorney as provided in subsection (1)(a)(ii).

(2) If the report required in subsection (1) involves an act or omission of the department that may be construed as abuse, sexual abuse, neglect, or exploitation, a copy of the report may not be sent to the department but must be sent instead to the county attorney of the county in which the vulnerable adult resides or in which the acts that are the subject of the report occurred.

(3) Professionals and other persons required to report are:

(a) a physician, resident, intern, professional or practical nurse, physician assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons.

(b) an osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional.

(c) an ambulance attendant.

(d) an employee of the state, a county, or a municipality assisting a vulnerable adult in the application for or receipt of public assistance payments or services.

(e) a person who maintains or is employed by a rooming house, retirement home or complex, nursing home, group home, adult foster care home, adult day-care center, or assisted living facility or an agency or individual that provides home health services or personal care in the home.

(f) an attorney, unless the attorney acquired knowledge of the facts required to be reported from a client and the attorney-client privilege applies.

(g) a peace officer or other law enforcement official.

(h) a person providing services to a vulnerable adult pursuant to a contract with a state or federal agency.

(i) an employee of the department while in the conduct of the employee's duties; and

(j) a conservator, legal guardian, or representative payee.

(4) Except as provided under 45 CFR 1324.19, a long-term care ombudsman who is a professional or other person listed in subsection (3) shall be exempt from mandatory reporting of abuse, neglect, and exploitation when knowledge of the facts required to be reported are acquired while the long-term care ombudsman is acting in the ombudsman's official capacity as an ombudsman.

(5) Any other persons or entities may, but are not required to, submit a report in accordance with subsection (1).

History: En. Sec. 4, Ch. 623, L. 1983; amd. Sec. 13, Ch. 548, L. 1985; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 5, Ch. 198, L. 1989; Sec. 53-5-511, MCA 1989; redes. 52-3-811 by Code Commissioner, 1991; amd. Sec. 5, Ch. 167, L. 1993; amd. Sec. 3, Ch. 421, L. 1993; amd. Sec. 154, Ch. 418, L. 1995; amd. Sec. 7, Ch. 465, L. 1995; amd. Sec. 365, Ch. 546, L. 1995; amd. Sec. 4, Ch. 196, L. 1999; amd. Sec. 9, Ch. 54, L. 2003; amd. Sec. 22, Ch. 12, L. 2023.

**52-3-812 Content of Report** (1) The report required by **52-3-811** may be made in writing or orally, by telephone, in person, or electronically through the department. A person who receives an oral report shall prepare it in writing as soon as possible.

(2) The report referred to under this section must contain:

(a) the names and addresses of the vulnerable adult and the person, if any, responsible for the vulnerable adult's care.

(b) the name and address, if available, of the person who is alleged to have abused, sexually abused, neglected, or exploited the vulnerable adult.

(c) to the extent known, the vulnerable adult's age and the nature and extent of the abuse, sexual abuse, neglect, or exploitation, including any evidence of previous injuries, abuse, sexual abuse, neglect, or exploitation sustained by the vulnerable adult and any evidence of prior instances of abuse, sexual abuse, neglect, or exploitation of other vulnerable adults committed by the person alleged to have committed abuse, sexual abuse, neglect, or exploitation; and

(d) the name and address of the person making the report.

History: En. Sec. 5, Ch. 623, L. 1983; amd. Sec. 6, Ch. 198, L. 1989; Sec. 53-5-512, MCA 1989; redes. 52-3-812 by Code Commissioner, 1991; amd. Sec. 6, Ch. 167, L. 1993; amd. Sec. 7, Ch. 465, L. 1995; amd. Sec. 5, Ch. 196, L. 1999; amd. Sec. 23, Ch. 12, L. 2023.

**52-3-813 Confidentiality** (1) The case records of the department, its local affiliate, the county attorney, and the court concerning actions taken under this part and all reports made pursuant to **52-3-811** must be kept confidential except as provided by this section. For the purposes of this section, the term "case records" includes records of an investigation of a report of abuse, sexual abuse, neglect, or exploitation.

(2) The records and reports required to be kept confidential by subsection (1) may be disclosed, on written request, to the following persons or entities in this or any other state:

(a) a physician who is caring for a vulnerable adult who the physician reasonably believes was abused, sexually abused, neglected, or exploited.

(b) a legal guardian or conservator of the vulnerable adult if the identity of the person who made the report is protected and the legal guardian or conservator is not the person suspected of the abuse, sexual abuse, neglect, or exploitation.

(c) the vulnerable adult named in the report as allegedly being abused, sexually abused, neglected, or exploited if that person is not an incapacitated person.

(d) any person engaged in bona fide research if the person alleged in the report to have committed the abuse, sexual abuse, neglect, or exploitation is later convicted of an offense constituting abuse, sexual abuse, neglect, or exploitation and if the identity of the vulnerable adult who is the subject of the report is not disclosed to the researcher.

(e) an adult protective service team. Members of the team are required to keep information about the subject individuals confidential.

(f) an authorized representative of a provider of services to a vulnerable adult alleged to be abused, sexually abused, neglected, or exploited if:

(i) the department and the provider are parties to a contested case proceeding under Title 2, chapter 4, part 6, resulting from action by the department adverse to the license of the provider and if information contained in the records or reports of the department is relevant to the case.

(ii) disclosure to the provider is determined by the department to be necessary to protect an interest of a vulnerable adult alleged to be abused, sexually abused, neglected, or exploited; or

(iii) the person is carrying out background screening or employment-related or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with a vulnerable adult through employment or volunteer activities if the disclosure is limited to information that indicates a risk to a vulnerable adult posed by the employee or volunteer, as determined by the department. A request for information under this subsection must be made in writing.

(g) an employee of the department if disclosure of the record or report is necessary for administration of a program designed to benefit a vulnerable adult alleged to be abused, sexually abused, neglected, or exploited.

(h) an authorized representative of a guardianship program approved by the department if the department determines that disclosure to the program or to a person designated by the program is necessary for the proper provision of guardianship services to a vulnerable adult alleged to be abused, sexually abused, neglected, or exploited.

(i) protection and advocacy systems authorized under the provisions of 29 U.S.C. 794e, 42 U.S.C. 10805, or 42 U.S.C. 15043.

(j) the news media if disclosure is limited to confirmation of factual information regarding how the case was handled and does not violate the privacy rights of the vulnerable adult or alleged perpetrator of abuse, sexual abuse, neglect, or exploitation, as determined by the department.

(k) a coroner or medical examiner who is determining the cause of death of a vulnerable adult.

(l) a person about whom a report has been made and that person's attorney with respect to relevant records pertaining to that person only without disclosing the identity of the person who made the report or any other person whose safety might be endangered through disclosure.

(m) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of abuse, sexual abuse, neglect, or exploitation of a vulnerable adult; and

(n) a department, agency, or organization, including a federal agency, military reservation, or tribal organization, that is legally authorized to receive, inspect, or investigate reports of abuse, sexual abuse, neglect, or exploitation of a vulnerable adult and that meets the disclosure criteria contained in this section.

(3) The records and reports required to be kept confidential by subsection (1) must be disclosed, upon request, to the following persons or entities in this or any other state:

(a) a county attorney or other law enforcement official who requires the information in connection with an investigation of a violation of this part.



(b) a court that has determined, in camera, that public disclosure of the report, data, information, or record is necessary for the determination of an issue before it.

(c) a grand jury upon its determination that the report, data, information, or record is necessary in the conduct of its official business.

(4) If the person who is reported to have abused, sexually abused, neglected, or exploited a vulnerable adult is the holder of a license, permit, or certificate issued by the department of labor and industry under the provisions of Title 37 or issued by any other entity of state government, the report may be submitted to the entity that issued the license, permit, or certificate.

History: En. Sec. 6, Ch. 623, L. 1983; amd. Sec. 2, Ch. 662, L. 1985; amd. Sec. 63, Ch. 83, L. 1989; amd. Sec. 7, Ch. 198, L. 1989; Sec. 53-5-513, MCA 1989; redes. 52-3-813 by Code Commissioner, 1991; amd. Sec. 7, Ch. 167, L. 1993; amd. Sec. 4, Ch. 421, L. 1993; amd. Sec. 58, Ch. 18, L. 1995; amd. Sec. 5, Ch. 465, L. 1995; amd. Sec. 366, Ch. 546, L. 1995; amd. Sec. 6, Ch. 196, L. 1999; amd. Sec. 193, Ch. 483, L. 2001; amd. Sec. 86, Ch. 2, L. 2009; amd. Sec. 24, Ch. 12, L. 2023.

**52-3-814 Immunity from Civil and Criminal Liability** (1) A person who makes a report required or authorized to be made under **52-3-811** is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report unless the report is false in any material respect and the person acted in bad faith or with malicious purpose.

(2) A person who provides information or who uses information obtained pursuant to **52-3-813(2)** to refuse to hire or to discharge an employee, volunteer, or other person who through their employment or volunteer activities may have unsupervised contact with a vulnerable adult is immune from civil liability unless the person providing or using the information acts in bad faith or with malicious purpose.

History: En. Sec. 7, Ch. 623, L. 1983; Sec. 53-5-514, MCA 1989; redes. 52-3-814 by Code Commissioner, 1991; amd. Sec. 6, Ch. 465, L. 1995; amd. Sec. 25, Ch. 12, L. 2023.

**52-3-815 Evidence of Abuse, Sexual Abuse, Neglect, Or Exploitation To Be Gathered And Submitted** (1) A person or agency receiving a report of suspected abuse, sexual abuse, neglect, or exploitation under **52-3-811** shall prepare a written description of the conditions regarded as evidence of abuse, sexual abuse, neglect, or exploitation and may, with the consent of an allegedly abused, sexually abused, neglected, or exploited vulnerable adult or without consent of the vulnerable adult if it appears that the vulnerable adult is an incapacitated person, take or cause to be taken photographs of an area of trauma visible on the body of the allegedly abused, sexually abused, neglected, or exploited vulnerable adult and regarded as evidence of abuse, sexual abuse, neglect, or exploitation.

(2) A physician required to report under **52-3-811** may, with the consent of an allegedly abused, sexually abused, neglected, or exploited vulnerable adult or without consent of the vulnerable adult if it appears that the person is an incapacitated person, require x-rays or other appropriate medical tests or procedures that would, in the professional opinion

of the physician, assist in establishing evidence related to the allegation of abuse, sexual abuse, neglect, or exploitation.

(3) Evidence authorized to be gathered under this section must be submitted with the report required under **52-3-811** to the authorities designated in **52-3-811** as soon as possible after submission of the report.

History: En. Sec. 3, Ch. 716, L. 1991; amd. Sec. 8, Ch. 167, L. 1993; amd. Sec. 7, Ch. 465, L. 1995; amd. Sec. 7, Ch. 196, L. 1999; amd. Sec. 26, Ch. 12, L. 2023.

**52-3-821 Admissibility of Evidence** In any proceeding resulting from a report made pursuant to the provisions of this part or in any proceeding where the report or its content is sought to be introduced into evidence, the report or its content or any other fact related to the report or to the condition of the vulnerable adult who is the subject of the report may not be excluded on the ground that the matter is or may be the subject of a privilege granted in Title 26, chapter 1, part 8, except the attorney-client privilege granted by **26-1-803**.

History: En. Sec. 8, Ch. 623, L. 1983; amd. Sec. 8, Ch. 198, L. 1989; Sec. 53-5-521, MCA 1989; redes. 52-3-821 by Code Commissioner, 1991; amd. Sec. 27, Ch. 12, L. 2023.

**52-3-825 Penalties** (1) A person is guilty of an offense and on conviction is punishable as provided in **46-18-212** if the person purposely or knowingly:

- (a) fails to make a report required by **52-3-811**;
- (b) fails to disclose the contents of a case record or report in violation of **52-3-813**;
- (c) gives false information to any adult protective services representative, county attorney, or law enforcement officer with the purpose to implicate another person;
- (d) reports to adult protective services, the county attorney, or law enforcement authorities an offense or other incident within the person's concern knowing that it did not occur; or
- (e) pretends to furnish adult protective services, the county attorney, or law enforcement authorities with information relating to an offense or incident when the person knows that the person has no information relating to the offense.

(2) (a) Except as provided in subsection (2)(c), a person who purposely or knowingly abuses, sexually abuses, or neglects a vulnerable adult is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.

(b) (i) Except as provided in subsection (2)(c), a person who negligently abuses a vulnerable adult is guilty of a misdemeanor and upon a first conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(b)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.

(c) (i) A person who causes personal degradation to a vulnerable adult in a place where the vulnerable adult has a reasonable expectation of privacy is, for a first offense, guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both.

(ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(c)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years or be fined an amount not to exceed \$10,000, or both.

(d) A person 18 years of age or older who has a developmental disability, as defined in **53-20-102**, may not be charged under subsections (2)(a) through (2)(c).

History: En. Sec. 10, Ch. 623, L. 1983; amd. Sec. 2, Ch. 668, L. 1985; amd. Sec. 1, Ch. 411, L. 1987; amd. Sec. 9, Ch. 198, L. 1989; Sec. 53-5-525, MCA 1989; redes. 52-3-825 by Code Commissioner, 1991; amd. Sec. 9, Ch. 167, L. 1993; amd. Sec. 7, Ch. 465, L. 1995; amd. Sec. 8, Ch. 196, L. 1999; amd. Sec. 2, Ch. 350, L. 2003; amd. Sec. 1, Ch. 429, L. 2005; amd. Sec. 2, Ch. 158, L. 2013; amd. Sec. 3, Ch. 180, L. 2015; amd. Sec. 2, Ch. 329, L. 2019; amd. Sec. 28, Ch. 12, L. 2023.