CHAPTER NO. 10

HOUSE BILL NO. 6

INTRODUCED BY SCULLY

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January	4, 1	.979			Introduced and referred to Committee on Judiciary.
January	6, 1	979			On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to Pre-Filed Bills.
January	12,	1979			Committee recommend bill do pass. Report adopted.
January	13,	1979			On motion rules suspended and bill placed on Second Reading this day.
					Second reading, do pass.
					On motion rules suspended and bill placed on third reading this day.
					Third reading, passed.
					Considered correctly engrossed Transmitted to Second House.
			IN THE	SENATE	
January	15,	1979			Introduced and referred to Committee on Judiciary.
January	18,	1979			Committee recommend bill concurred in as amended. Report adopted.
January	20,	1979			Second reading, concurred in.
January	22,	1979			Third reading, concurred in as amended.

IN THE HOUSE

January 22, 1979

January 23, 1979

January 24, 1979

January 25, 1979

Returned from Second House. Concurred in as amended.

Second reading, pass consideration.

Second reading, amendments adopted.

Third reading, amendments adopted.

Sent to enrolling.

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Report correctly enrolled.

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House BILL NO. 6 1 2 INTRODUCED BY BY REQUEST OF THE CODE COMMISSIONER 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW 6 RELATING TO CRIMES; AMENDING SECTION 45-2-101, MCA, TO 7 CLARIFY ITS APPLICATION; AND REPEALING SECTION 34-112. R.C.M. 1947.* 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 45-2-101, MCA, is amended to read: #45-2-101. General definitions. Unless otherwise 12 specified in the statute, all words will be taken in the 13 objective standard rather than in the subjective, and unless 14 a different meaning plainly is required, the following 15 definitions apply-in-this-title: 16 (1) "Acts" has its usual and ordinary grammatical 17 meaning and includes any bodily movement, any form of 18 communication, and where relevant, a failure or omission to 19

20 take action.

(2) "Administrative proceeding" means any proceeding
the outcome of which is required to be based on a record or
documentation prescribed by law or in which a law or a
regulation is particularized in its application to an
individual.

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1	(3) "Another" means a person or persons _# as defined in
2	this code <u></u> other than the offender.
3	(4) "Benefit" means gain or advantage or anything
4	regarded by the beneficiary as gain or advantage, including
5	benefit to any other person or entity in whose welfare he is
6	interested, but not an advantage promised generally to a
۲	group or class of voters as a consequence of public measures
8	which a candidate engages to support or oppose.
9	(5) "Bodily injury" means physical pain, illness, or
10	any impairment of physical condition and includes mental
11	illness or impairment.
12	(6) "Cohabit" means to live together under the
13	representation of being married.
14	(7) "Common scheme" means a series of acts or
15	omissions motivated by a purpose to accomplish a single
16	criminal objective or by a common purpose or plan which
17	results in the repeated commission of the same offense or
18	affects the same person or the same persons or the property
19	thereof.
20	(B) "Conduct" means an act or series of acts and the
21	accompanying mental state.
22	(9) "Conviction" means a judgment of conviction or
23	sentence entered upon a plea of guilty or upon a verdict or
24	finding of guilty of an offense rendered by a legally
25	constituted jury or by a court of competent jurisdiction

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INTRODUCED BILL

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authorized to try the case without a jury.	1 (13) "Deprive" means to withhold property of another:
(10) "Correctional institution" means the state prison;	2 (a) permanently;
county or city jaily or other institution for the	3 (b) for such a period as to appropriate a portion of
incarceration or custody of persons under sentence for	4 its value;
offenses or awaiting trial or sentence for offenses.	5 (c) with the purpose to restore it only upon payment
(11) "Deception" means knowingly to:	6 of reward or other compensation; or
(a) create or confirm in another an impression which	7 (d) to dispose of the property and use or deal with
is false and which the offender does not believe to be true;	3 the property so as to make it unlikely that the owner will
(b) fail to correct a false impression which the	9 recover it.
offender previously has created or confirmed;	10 (14) "Deviate sexual relations" means sexual contact or
(c) prevent another from acquiring information	11 sexual intercourse between two persons of the same sex or
pertinent to the disposition of the property involved;	12 any form of sexual intercourse with an animal.
(d) sell or otherwise transfer or encumber property.	13 (15) "Felony" means an offense in which the sentence
failing to disclose a lien, adverse claim, or other legal	14 imposed upon conviction is death or imprisonment in the
impediment to the enjoyment of the property, whether such	15 state prison for any term exceeding 1 year.
impodiment is or is not of value or is or is not a matter of	16 (16) "Forcible felony" means any felony which involves
official record; or	17 the use or threat of physical force or violence against any
(e) promise performance which the offender does not	18 individual.
intend to perform or knows will not be performed. Failure to	19 (17) A "frisk" is a search by an external patting of a
perform standing alone is not evidence that the offender did	20 person's cluthing.
not intend to perform.	21 (18) "Government" includes any branch, subdivision, or
(12) "Defamatory matter" means anything which exposes a	22 agency of the government of the state or any locality within
person or a group, class, or association to hatred,	23 it.
contempt, ridicule, degradation, or disgrace in society or	24 (19) "Harm" means loss, disadvantage, or injury or
to injury to his or its business or occupation.	25 anything so regarded by the person affected, including loss,

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disadvantage, or injury to any person or entity in whose
 welfare he is interested.

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3 (20) A "house of prostitution" means any place where
4 prostitution or promotion of prostitution is regularly
5 carried on by one or more persons under the control,
6 management, or supervision of another.

7 (21) "Human being" means a person who has been born and 8 is alive.

9 (22) An "illegal article" is an article or thing which 10 is prohibited by statute, rule, or order from being in the 11 possession of a person subject to official detention.

12 (23) "Inwate" means a person who engages in 13 prostitution in or through the agency of a house of 14 prostitution.

15 (24) "Intoxicating substance" means any controlled substance as defined in Title 50, chapter 32, and any 15 17 alcoholic beverage, including but not limited to any 18 beverage containing 1/2 of 1% or more of alcohol by volume. 19 The foregoing definition shall does not extend to 20 dealcoholized wine or to any beverage or liquid produced by 21 the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume. 22

23 (25) An "involuntary act" means any act which is:

24 (a) a reflex or convulsion;

25 (b) a bodily movement during unconsciousness or sleep;

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1	(c) conduct during hypnosis or resulting from hypnotic
2	suggestion; or
3	(d) a bodily movement that otherwise is not a product
4	of the effort or actermination of the actor, either
5	conscious or habitual.
6	(26) "Juror" means any person who is a member of any
7	jury, including a grand jury, impaneled by any court in this
8	state in any action or proceeding or by any officer
9	authorized by law to impanel a jury in any action or
10	proceeding. The term "juror" also includes a person who has
11	been drawn or summooned to attend as a prospective juror.
12	{27] "Knowingly"a person acts knowingly with respect
13	to conduct or to a circumstance described by a statute
14	defining an offense when by is aware of his conduct or that
15	the circumstance exists. A person acts knowingly with
16	respect to the result of conduct described by a statute
17	defining an offense when he is aware that it is highly
13	probable that such result will be caused by his conduct.
19	When knowledge of the existence of a particular fact is an
20	Clement of an offense, such knowledge is established if a
21	person is aware of a high probability of its existence.
22	Equivalent terms such as "knowing" or "with knowledge" have
23	the same menning.
24	(28) "Mentally defective" means that a person suffers
25	from a mental disease or defect which renders him incapable

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1 of appreciating the nature of his conduct.

2 (29) "Mentally incapacitated" means that a person is 3 rendered temporarily incapable of appreciating or 4 controlling his conduct as a result of the influence of an 5 intoxicating substance.

(30) "Miscienceanor" means an offense in which the
sentence imposed upon conviction is imprisonment in the
county jail for any term or a fine, or both, or the sentence
imposed is imprisonment in the state prison for any term of
1 year or less.

11 (31) "Neuligently"--a person acts negligently with respect to a result or to a circumstance described by a 12 13 statute defining an offense when he consciously disregards a risk that the result will occur or that the circumstance 14 15 exists or if when he disregards a risk of which he should be 16 aware that the result will occur or that the circumstance 17 exists. The risk must be of such a nature and degree that to 18 disregard it involves a gross deviation from the standard of 19 conduct that a reasonable person would observe in the actor's situation. "Gross deviation" means a deviation that 20 21 is considerably greater than lack of ordinary care. Relevant terms such as "negligent" and "with negligence" 22 23 have the same meaning.

24 (32) "Obtain" means:

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(a) in relation to property, to bring about a transfer

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of interest or possession<u>e</u> whether to the offender or to
 another; and

3 (b) in relation to labor or services, to secure the
4 performance thereaf.

5 (33) "Obtains or exerts control" includes but is not
6 limited to the taking, carrying away, or sale, conveyance,
7 or transfer of title to, interest in, or possession of
8 property.

9 (34) "Occupied structur?" means any building, vehicle;
10 or other place suited suitable for human occupancy or night
11 lodging of persons or for carrying on business, whether or
12 not a person is actually present. Each unit of a building
13 consisting of two or more units separately secured or
14 occupied is a separate occupied structure.

15 (35) "Offender" means a person who has been or is
16 liable to be arrested; charged; convicted; or punished for a
17 public offense.

18 (36) "Offense" means a crime for which a sentence of
19 death or of imprisonment or <u>a</u> fine is authorized. Offenses
20 are classified as felonies or misdemeanors.

(37) "Official optention" means imprisonment resulting
from a conviction for an offense, confinement for an
offense, confinement of a person charged with an offense,
detention by a peace officer pursuant to arrest, detention
for extradition or deportation, or any lawful detention for

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the purpose of the protection of the welfare of the person detained or for the protection of society. Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

7 (33) "Official proceeding" means a proceeding heard or 8 which may be heard before any legislative, judicial, 9 administrative, or other governmental agency or official 10 authorized to take evidence under oath, including any 11 referee, hearing examiner, commissioner, notary, or other 12 person taking testimony or deposition in connection with 13 such proceeding.

14 (39) "Other state" means any state or territory of the
15 United States, the District of Columbia, and the
16 Commonwealth of Puerto Rico.

17 (40) "Owner" means a person other than the offender who 18 has possession of or any other interest in the property 19 involved, even though such interest or possession is 20 unlawful, and without whose consent the offendar has no 21 authority to exert control over the property.

22 (41) "Party official" means a person who holds an 23 elective or appointive post in a political party in the 24 United States by virtue of which he directs or conducts or 25 participates in directing or conducting party affairs at any 1 level of responsibility.

2 (42) "Peace officer" means any person who by virtue of 3 his office or public employment is vested by law with a guty to maintain public order or to make arrests for offenses 4 5 while acting within the scope of his authority. (43) "Pecuniary benefit" is benefit in the form of 6 7 money, property, commercial interests, or anything else the 8 primary significance of which is economic gain. 9 (44) "Person" includes an individual, business 10 association, partnership, corporation, government, or other 11 legal entity and an individual acting or purporting to act 12 for or on behalf of any government or subdivision thereof. 13 (45) "Physically helpless" means that a person is 14 unconscious or is otherwise physically unable to communicate 15 unwillingness to act. (46) "Possession" is the knowing control of anything 16 17 for a sufficient time to be able to terminate control. 16 (47) "Premises" includes any type of structure or 19 building and env real property. 20 (48) "Property" means anything of value. Property 21 includes but is not limited to: 22 (a) real estate; 23 (b) money; (c) commercial instruments: 24 25 (d) admission or transportation tickets;

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2 rights concerning anything of value, including labor or services, or which are otherwise of value to the owner; 3 (f) things growing on, affixed to, or found on land 4 5 and things which are part of or affixed to any building; 6 (q) electricity, gas, and water; 7 (h) birds, animals, and fish which ordinarily are kept 8 in a state of confinement: 9 (i) food and drink, samples, cultures, microorganisms, 10 specimens, records, recordings, documents, blueprints, 11 drawings, maps, and whole or partial copies, descriptions, 12 photographs, prototypes, or models thereof; and 13 (j) any other articles, materials. devices. 14 substances, and whole or partial copies, descriptions, 15 photographs, prototypes, or models thereof which constitute. 16 represent, evidence, reflect, or record secret scientific, 17 technical. merchandising, production, or management 18 information or a secret designed process, procedure, 19 formula, invention, or improvement.

(e) written instruments which represent or embody

(49) "Property of Another" means real or personal
property in which a person other than the offender has an
interest which the offender has not no authority to defeat
or impair, even though the offender himself may have an
interest in the property.

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(50) "Public place" means any place to which the public

1 or any substantial group thereof has access.

2 (51) "Public servant" means any officer or employee of з government, including but not limited to legislators, 4 judges, and firefighters, and any person participating as a 5 iuror, advisor, consultant, administrator, executor, 6 quardian. or court-appointed fiduciary. The term does not 7 include witnesses. The term "sublic servant" includes one who has been elected or designated to become a public 8 9 servant.

10 (52) "Purposely"--a person acts purposely with respect 11 to a result or to conduct described by a statute defining an 12 offense if it is his conscious object to engage in that 13 conduct or to cause that result. When a particular purpose is an element of an offense, the element is established 14 15 although such purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law 16 17 defining the offense. Equivalent terms such as "purpose" and 18 "with the purpose" have the same meaning.

19 (53) "Serious bodily injury" means bodily injury which
20 creates a substantial risk of death or which causes serious
21 permanent disfigurement or protracted loss or impairment of
22 the function or process of any bodily member or organ. It
23 includes serious mental illness or impairment.

24 (54) "Sexual contact" means any touching of the sexual
25 or other intimate parts of the person of another for the

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purpose of arousing or gratifying the sexual desire of
 either party.

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З (55) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis of another 4 person, penetration of the vulva or anus of one person by 5 any body member of another person, or penetration of the 6 7 vulva or anus of one person by any foreign instrument or object manipulated by another person for the purpose of 8 arousing or gratifying the sexual desire of either party. 9 10 Any penetration, however slight, is sufficient.

11 (56) "Solicit" or "solicitation" means to command, 12 authorize, urge, incite, request, or advise another to 13 commit an offense.

14 (57) "State" or "this state" means the state of 15 Montana, all the land and water in respect to which the 16 state of Montana has either exclusive or concurrent 17 jurisdiction, and the air space above such land and water. 18 (58) "Statute" means any act of the legislature of this 19 state.

20 (59) "Stolen property" means property over which
21 control has been obtained by theft.

22 (60) A "stop" is the temporary detention of a person
23 that results when a peace officer orders the person to
24 remain in his presence.

25 (61) "Tamper" means to interfere with something

its existing condition, or deposit refuse upon it. (62) "Threat" means a menace, however communicated, to: (a) inflict physical harm on the person threatened or any other person or on property; (b) subject any person to physical confinement or restraint; (c) commit any criminal offense; (d) accuse any person of a criminal offense; (e) expose any person to hatred, contempt, or ridicule: (f) harm the credit or business repute of any person; (q) reveal any information sought to be concealed by the person threatened; {h} take action as an official against anyone or anything, withhold official action, or cause such action or withhelding; (i) bring about or continue a strike, boycott, or other similar collective action if the property is not demanded or received for the benefit of the groups which he purports to represent; or (j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

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25 (63) (a) "Value" means the market value of

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property at the time and place of the crime or, if such cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value shall be determined as follows:

7 (i) The value of an instrument constituting an 8 evidence of debt, such as a check, draft, or promissory 9 note, shall be deemed <u>considered</u> the amount due or 10 collectible thereon or thereby, such figure ordinarily being 11 the face amount of the indebtedness less any portion thereof 12 which has been satisfied.

13 (ii) The value of any other instrument which creates, 14 releases, discharges, or otherwise affects any valuable 15 legal right, privilege, or obligation shall be deemed 16 <u>considered</u> the amount of economic loss which the owner of 17 the instrument might reasonably suffer by virtue of the loss 18 of the instrument.

19 (b) When it cannot be determined if the value of the
20 property is more or less than \$150 by the standards set
21 forth in subsection (63)(a) above, its value shall be deemed
22 considered to be an amount less than \$150.

(c) Amounts involved in thefts committed pursuant to a
 common scheme or the same transaction, whether from the same
 person or several persons, may be aggregated in determining

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1 the value of the property.

2 (64) "Vehicle" means any device for transportation by
3 land, water, or air or mobile equipment with provision for
4 transport of an operator.

5 (65) "Weapon" means any instrument, article, or
6 substance which, regardless of its primary function, is
7 readily capable of being used to produce death or serious
9 bodily injury.

9 (66) "Witness" weaks a person whose testimony is 10 desired in any official proceeding, in any investigation by 11 a grand jury, or in a criminal action, prosecution, or 12 proceeding."

13 Section 2. Repealer. Section 34-112, R.C.N. 1947, is

14 repealed.

-End-

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SENATE MEMBERS

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FRANK HAZEEBAKER VICE CHAIRMAN

CHET BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING EXECUTIVE DIRECTOR CODE COMMISSIONER

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ROBERTA MOODY DIRECTOR, LEGISLATIVE SERVICES



Montana <u>Aegislative</u> Council

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LC 0025

1979 Legislature Code Commissioner Bill - Summary

House Bill No. 6

AN ACT TO REVISE THE LAW RELATING TO CRIMES; AMENDING SECTION 45-2-101, M C A , TO CLARIFY ITS APPLICATION; AND REPEALING SECTION 34-112, R.C.M. 1947.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. <u>45-2-101</u>. In lead-in, deleted "in this title". The phrase was added for uniform style by code commissioner bill in 1977. However, the phrase narrowed the application of this definition section and therefore worked an inadvertant substantive change.

In (1), deleted "grammatical" from the term "usual and ordinary grammatical meaning". "Grammatical has nothing to do with meaning and is superfluous in this context. Other grammatical or style changes were made in (12),(24), (30), (31), (34), (36), (49), and (63).

Section 2. <u>34-112</u>. Repeal. The subject covered by this section, enacted in 1895, is also covered by 45-6-301 of the 1973 Criminal Code relating to theft.

Approved by Committee on Judiciary

1	HOUSE BILL NO. 6
2	INTRODUCED BY SCULLY
3	BY REQUEST OF THE CODE COMMISSIONER
4	
5	A BILL FUR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW
6	RELATING TO CRIMES; AMENDING SECTION 45-2-101, MCA, TO
7	CLARIFY ITS APPLICATION; AND REPEALING SECTION 34-112.
8	R.C.M. 1947."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 45-2-101, MCA, is amended to read:
12	#45-2-101. General definitions. Unless otherwise
13	specified in the statute, all words will be taken in the
14	objective standard rather than in the subjective, and unless
15	a different meaning plainly is required, the following
16	definitions apply-in-this-title:
17	(1) "Acts" has its usual and ordinary grammatical
18	meaning and includes any bodily movement, any form of
19	communication, and where relevant, a failure or omission to
20	take action.
21	(2) "Administrative proceeding" means any proceeding

22 the outcome of which is required to be based on a record or 23 documentation prescribed by law or in which a law or a 24 regulation is particularized in its application to an 25 individual.

On motion rules suspended, yellow printing dispensed.

(3) "Another" means a person or persons, as defined in
 this code, other than the offender.

3 (4) "Benefit" means gain or advantage or anything 4 regarded by the beneficiary as gain or advantage, including 5 benefit to any other person or entity in whose welfare he is 6 interested, but not an advantage promised generally to a 7 group or class of voters as a consequence of public measures 8 which a candidate engages to support or oppose.

9 (5) "Bodily injury" means physical pain, illness, or
10 any impairment of physical condition and includes mental
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14 (7) "Common scheme" means a series of acts or 15 omissions motivated by a purpose to accomplish a single 16 criminal objective or by a common purpose or plan which 17 results in the repeated commission of the same offense or 18 affects the same person or the same persons or the property 19 thereof.

20 (8) "Conduct" means an act or series of acts and the
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authorized to try the case without a jury. 1 2 (10) "Correctional institution" means the state prison. county or city jail, or other institution for the з 4 incarceration or custody of persons under sentence for 5 offenses or awaiting trial or sentence for offenses. (11) "Deception" means knowingly to: 6 7 (a) create or confirm in another an impression which is faise and which the offender does not believe to be true: 8 9 (b) fail to correct a false impression which the 10 offender previously has created or confirmed; 11 (c) prevent another from acquiring information 12 pertinent to the disposition of the property involved; (d) sell or otherwise transfer or encumber property. 13 14 failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether such 15 impediment is or is not of value or is or is not a matter of 16 17 official record; or 18 (e) promise performance which the offender does not intend to perform or knows will not be performed. Failure to 19 20 perform standing alone is not evidence that the offender did 21 not intend to perform. 22 (12) "Defamatory matter" means anything which exposes a 23 person or a group, class, or association to hatred. contempt, ridicule, degradation, or disgrace in society or 24 25 to injury to his or its business or occupation.

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(13) "Deprive" means to withhold property of another: (a) permanently: (b) for such a period as to appropriate a portion of its value: (c) with the purpose to restore it only upon payment of reward or other compensation; or (d) to dispose of the property and use or deal with the property so as to make it unlikely that the owner will recover it. (14) "Deviate sexual relations" means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal. (15) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in the state prison for any term exceeding 1 year. (16) "Forcible felony" means any felony which involves the use or threat of physical force or violence against any individual. (17) A "frisk" is a search by an external patting of a person's clothing. (18) "Government" includes any branch, subdivision, or

21 (18) "Government" includes any branch, subdivision, or
22 agency of the government of the state or any locality within
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24 (19) "Harm" means loss, disadvantage, or injury or 25 anything so regarded by the person affected, including loss,

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disadvantage, or injury to any person or entity in whose
 welfare he is interested.

3 (20) A "house of prostitution" means any place where
4 prostitution or promotion of prostitution is regularly
5 carried on by one or more persons under the control.
6 management, or supervision of another.

7 (21) "Human being" means a person who has been born and
 8 is alive.

9 (22) An "illegal article" is an article or thing which 10 is prohibited by statute, rule, or order from being in the 11 possession of a person subject to official detention.

12 (23) "Inmate" means a person who engages in 13 prostitution in or through the agency of a house of 14 prostitution.

(24) "Intoxicating substance" means any controlled 15 substance as defined in Title 50, chapter 32, and any 16 alcoholic beverage, including but not limited to any 17 18 beverage containing 1/2 of 1% or more of alcohol by volume. 19 The foregoing definition shall does not extend to 20 dealcoholized wine or to any beverage or liquid produced by 21 the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume. 22

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4 of the effort or determination of the actor, either
5 conscious or habitual.

6 (26) "Juror" means any person who is a member of any
7 jury, including a grand jury, impaneled by any court in this
8 state in any action or proceeding or by any officer
9 authorized by law to impanel a jury in any action or
10 proceeding. The term "juror" also includes a person who has
11 been drawn or summoned to attend as a prospective juror.

12 (27) "Knowingly"--a person acts knowingly with respect 13 to conduct or to a circumstance described by a statute 14 defining an offense when he is aware of his conduct or that the circumstance exists. A person acts knowingly with 15 16 respect to the result of conduct described by a statute 17 defining an offense when he is aware that it is highly 18 probable that such result will be caused by his conduct. When knowledge of the existence of a particular fact is an 19 20 element of an offense, such knowledge is established if a 21 person is aware of a high probability of its existence. Equivalent terms such as "knowing" or "with knowledge" have 22 23 the same meaning.

(28) "Mentally defective" means that a person suffers
 from a mental disease or defect which renders him incapable

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1 of appreciating the nature of his conduct.

2 (29) "Mentally incapacitated" means that a person is
3 rendered temporarily incapable of appreciating or
4 controlling his conduct as a result of the influence of an
5 intoxicating substance.

6 (30) "Misdemeanor" means an offense in which the 7 sentence imposed upon conviction is imprisonment in the 8 county jail for any term or a fine, or both, or the sentence 9 imposed is imprisonment in the state prison for any term of 10 1 year or less.

11 (31) "Negligently"--a person acts negligently with 12 respect to a result or to a circumstance described by a statute defining an offense when he consciously disregards a 13 risk that the result will occur or that the circumstance 14 15 exists or if when he disregards a risk of which he should be aware that the result will occur or that the circumstance 16 17 exists. The risk must be of such a nature and degree that to 18 disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the 19 20 actor's situation. "Gross deviation" means a deviation that 21 is considerably greater than lack of ordinary care. 22 Relevant terms such as "negligent" and "with negligence" 23 have the same meaning.

(32) "Obtain" means:

24 25

(a) in relation to property, to bring about a transfer

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1 of interest or possessions whether to the offender or to 2 another; and

3 (b) in relation to labor or services, to secure the 4 performance thereof.

5 (33) "Obtains or exerts control" includes but is not
6 limited to the taking, carrying away, or sale, conveyance,
7 or transfer of title to, interest in, or possession of
8 property.

(34) "Occupied structure" means any building, vehicle,
or other place suited suitable for human occupancy or night
lodging of persons or for carrying on business, whether or
not a person is actually present. Each unit of a building
consisting of two or more units separately secured or
occupied is a separate occupied structure.

15 (35) "Offender" means a person who has been or is L6 liable to be arrested, charged, convicted, or punished for a 17 public offense.

18 (36) "Offense" means a crime for which a sentence of
19 death or of imprisonment or <u>a</u> fine is authorized. Offenses
20 are classified as felonies or misdemeanors.

21 (37) "Official detention" means imprisonment resulting 22 from a conviction for an offense, confinement for an 23 offense, confinement of a person charged with an offense, 24 detention by a peace officer pursuant to arrest, detention 25 for extradition or deportation, or any lawful detention for

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the purpose of the protection of the welfare of the person detained or for the protection of society. Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

7 (38) "Official proceeding" means a proceeding heard or 8 which may be heard before any legislative, judicial, 9 administrative, or other governmental agency or official 10 authorized to take evidence under oath, including any 11 referee, hearing examiner, commissioner, notary, or other 12 person taking testimony or deposition in connection with 13 such proceeding.

14 (39) "Other state" means any state or territory of the 15 United States, the District of Columbia, and the 16 Commonwealth of Puerto Rico.

17 (40) "Dwner" means a person other than the offender who 18 has possession of or any other interest in the property 19 involved, even though such interest or possession is 20 unlawful, and without whose consent the offender has no 21 authority to exert control over the property.

22 (41) "Party official" means a person who holds an 23 elective or appointive post in a political party in the 24 United States by virtue of which he directs or conducts or 25 participates in directing or conducting party affairs at any 1 level of responsibility.

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2 (42) "Peace officer" means any person who by virtue of
3 his office or public employment is vested by law with a duty
4 to maintain public order or to make arrests for offenses
5 while acting within the scope of his authority.

6 {43} "Pecuniary benefit" is benefit in the form of
7 money, property, commercial interests, or anything else the
8 primary significance of which is economic gain.

9 (44) "Person" includes an individual, business
10 association, partnership, corporation, government, or other
11 legal entity and an individual acting or purporting to act
12 for or on behalf of any government or subdivision thereof.
13 (45) "Physically helpless" means that a person is
14 unconscious or is otherwise physically unable to communicate
15 unwillingness to act.

16 (46) "Possession" is the knowing control of anything17 for a sufficient time to be able to terminate control.

18 (47) "Premises" includes any type of structure or 19 building and any real property.

20 (48) "Property" means anything of value. Property 21 includes but is not limited to:

- 22 (a) real estate;
- 23 (b) money;
- 24 (c) commercial instruments;
- 25 (d) admission or transportation tickets;

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{e} written instruments which represent or embody
 rights concerning anything of value, including labor or
 services, or which are otherwise of value to the owner;

4 (f) things growing on, affixed to, or found on land
 5 and things which are part of or affixed to any building;

6 (g) electricity, gas, and water;

7 (h) birds, animals, and fish which ordinarily are kept
8 in a state of confinement;

9 (i) food and drink, samples, cultures, microorganisms,
10 specimens, records, recordings, documents, blueprints,
11 drawings, maps, and whole or partial copies, descriptions,
12 photographs, prototypes, or models thereof; and

13 articles. devices. (j) any other materials. 14 substances, and whole or partial copies, descriptions, 15 photographs, prototypes, or models thereof which constitute, 16 represent, evidence, reflect, or record secret scientific, 17 technical. merchandising, production, or management 18 information or a secret designed process. procedure. 19 formula, invention, or improvement.

20 (49) "Property of another" means real or personal 21 property in which a person other than the offender has an 22 interest which the offender has not <u>no</u> authority to defeat 23 or impair. even though the offender himself may have an 24 interest in the property.

25 (50) "Public place" means any place to which the public

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1 or any substantial group thereof has access.

2 (51) "Public servant" means any officer or employee of 3 government, including but not limited to legislators, 4 judges, and firefighters, and any person participating as a 5 juror, advisor, consultant, administrator, executor, 6 guardian, or court-appointed fiduciary. The term does not 7 include witnesses. The term "public servant" includes one 8 who has been elected or designated to become a public 9 servant.

10 (52) "Purposely"--a person acts purposely with respect to a result or to conduct described by a statute defining an 11 offense if it is his conscious object to engage in that 12 13 conduct or to cause that result. When a particular purpose 14 is an element of an offense, the element is established 15 although such purpose is conditional, unless the condition 16 negatives the harm or evil sought to be prevented by the law 17 defining the offense. Equivalent terms such as "purpose" and 18 "with the purpose" have the same meaning.

19 (53) "Serious bodily injury" means bodily injury which 20 creates a substantial risk of death or which causes serious 21 permanent disfigurement or protracted loss or impairment of 22 the function or process of any bodily member or organ. It 23 includes serious mental illness or impairment.

24 (54) "Sexual contact" means any touching of the sexual
25 or other intimate parts of the person of another for the

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or

purpose of arousing or gratifying the sexual desire of 1 improperly, meddle with it, make unwarranted alterations in z its existing condition, or deposit refuse upon it. either party. (55) "Sexual intercourse" means penetration of the 3 (62) "Threat" means a menace, however communicated, to: vulva, anus, or mouth of one person by the penis of another (a) inflict physical harm on the person threatened or 4 person, penetration of the vulva or anus of one person by any other person or on property: 5 any body member of another person, or penetration of the (b) subject any person to physical confinement or 6 vulva or anus of one person by any foreign instrument or 7 restraint: object manipulated by another person for the purpose of (c) commit any criminal offense; 8 arousing or gratifying the sexual desire of either party. 9 (d) accuse any person of a criminal offense; Any penetration+ however slight+ is sufficient+ 10 (e) expose any person to hatred; contempt; (56) "Solicit" or "solicitation" means to commandy ridicule: 11 authorize, urge, incite, request, or advise another to 12 (f) harm the credit or business repute of any person; commit an offense. 13 (g) reveal any information sought to be concealed by (57) "State" or "this state" means the state of the person threatened: 14 Montana, all the land and water in respect to which the 15 (h) take action as an official against anyone or state of Montana has either exclusive or concurrent 16 anything, withhold official action, or cause such action or

> 17 withholding;

18 (i) bring about or continue a strike, boycott, or 19 other similar collective action if the property is not 20 demanded or received for the benefit of the groups which he 21 purports to represent; or

22 (j) testify or provide information or withhold 23 testimony or information with respect to another's legal 24 claim or defense.

25 (63) (a) "Value" means the market value of the

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control has been obtained by theft.

remain in his presence.

jurisdiction, and the air space above such land and water.

(58) "Statute" means any act of the legislature of this

(59) "Stolen property" means property over which

(60) A "stop" is the temporary detention of a person

(61) "Tamper" means to interfere with something

that results when a peace officer orders the person to

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property at the time and place of the crime or, if such cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value shall be determined as follows:

7 (i) The value of an instrument constituting an 8 evidence of debt, such as a check, draft, or promissory 9 note, shall be deemed <u>considered</u> the amount due or 10 collectible thereon or thereby, such figure ordinarily being 11 the face amount of the indebtedness less any portion thereof 12 which has been satisfied.

13 (ii) The value of any other instrument which creates, 14 releases, discharges, or otherwise affects any valuable 15 legal right, privilege, or obligation shall be deemed 16 <u>considered</u> the amount of economic loss which the owner of 17 the instrument might reasonably suffer by virtue of the loss 18 of the instrument.

(b) When it cannot be determined if the value of the
property is more or less than \$150 by the standards set
forth in subsection (63)(a) above, its value shall be deemed
<u>considered</u> to be an amount less than \$150.

(c) Amounts involved in thefts committed pursuant to a
 common scheme or the same transaction, whether from the same
 person or several persons, may be aggregated in determining

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1 the value of the property.

(64) "Vehicle" means any device for transportation by 2 land, water, or air or mobile equipment with provision for 3 transport of an operator. 4 5 (65) "Weapon" means any instrument, article, or 6 substance which, regardless of its primary function, is readily capable of being used to produce death or serious 7 8 bodily injury. 9 (66) "Witness" means a person whose testimony is 10 desired in any official proceeding, in any investigation by 11 a grand jury, or in a criminal action, prosecution, or 12 proceeding."

Section 2. Repealer. Section 34-112, R.C.N. 1947, is
 repealed.

-End-

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purpose of arousing or gratifying the sexual desire of
 either party.

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(55) "Sexual intercourse" means penetration of the 3 vulva, anus, or mouth of one person by the penis of another 4 person, penetration of the vulva or anus of one person by -5 any body member of another person, or penetration of the 6 vulva or anus of one person by any foreign instrument or 7 object manipulated by another person for the purpose of 8 arousing or gratifying the sexual desire of either party. 9 Any penetration, however slight, is sufficient. 10

(56) "Solicit" or "solicitation" means to command,
 authorize, urge, incite, request, or advise another to
 commit an offense.

14 (57) "State" or "this state" means the state of 15 Hontana, all the land and water in respect to which the 16 state of Montana has either exclusive or concurrent 17 jurisdiction, and the air space above such land and water-18 (58) "Statute" means any act of the legislature of this 19 state.

20 (59) "Stolen property" means property over which
21 control has been obtained by theft.

22 (60) A "stop" is the temporary detention of a person
23 that results when a peace officer orders the person to
24 remain in his presence.

25 (61) "Tamper" means to interfere with something

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improperly, meddle with it, make unwarranted alterations in 1 z its existing condition, or deposit refuse upon it. 3 (62) "Threat" means a menace, however communicated, to: (a) inflict physical harm on the person threatened or 4 ς. any other person or on property; 6 (b) subject any person to physical confinement or 7 restraint: (c) commit any criminal offense; 8 a (d) accuse any person of a criminal offense: 10 (e) expose any person to hatred, contempt, or ridicule: 11 12 (f) harm the credit or business repute of any person; 13 (g) reveal any information sought to be concealed by 14 the person threatened; 15 (h) take action as an official against anyone or anything, withhold official action, or cause such action or 16 17 withholding: 18 (i) bring about or continue a strike, boycott, or other similar collective action if the property is not 19 20 demanded or received for the benefit of the groups which he 21 purports to represent; or 22 (j) testify or provide information or withhold testimony or information with respect to another's legal 23 24 claim or defense. 25 (63) (a) "Value" means the market value of the

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property at the time and place of the crime or, if such cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value shall be determined as follows:

7 (i) The value of an instrument constituting an 8 evidence of debt, such as a check, draft, or promissory 9 note, shall be deemed <u>considered</u> the amount due or 10 collectible thereon or thereby, such figure ordinarily being 11 the face amount of the indebtedness less any portion thereof 12 which has been satisfied.

13 (ii) The value of any other instrument which creates, 14 releases, discharges, or otherwise affects any valuable 15 legal right, privilege, or obligation shall be deemed 16 <u>considered</u> the amount of economic loss which the owner of 17 the instrument might reasonably suffer by virtue of the loss 18 of the instrument.

(b) When it cannot be determined if the value of the
property is more or less than \$150 by the standards set
forth in subsection (63)(a) above, its value shall be deemed
<u>considered</u> to be an amount less than \$150.

(c) Amounts involved in thefts committed pursuant to a
 common scheme or the same transaction, whether from the same
 person or several persons, may be aggregated in determining

1 the value of the property.

2 (64) "Vehicle" means any device for transportation by
3 land, water, or air or mobile equipment with provision for
4 transport of an operator.

5 (65) "Weapon" means any instrument, article, or 6 substance which, regardless of its primary function, is 7 readily capable of being used to produce death or serious 8 bodily injury.

9 (66) "Witness" means a person whose testimony is
10 desired in any official proceeding. in any investigation by
11 a grand jury. or in a criminal action. prosecution. or
12 proceeding."

13 Section 2. Repeater. Section 34-112, R.C.M. 1947, is

14 repealed.

-End-

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HOUSE BILL NO. 6 1 (3) "Another" means a person or persons_ as defined in 1 INTRODUCED BY SCULLY 2 this code, other than the offender. 2 BY REQUEST OF THE CODE COMMISSIONER 3 (4) "Benefit" means gain or advantage or anything 3 regarded by the beneficiary as gain or advantage, including 4 4 A BILL FOR AN ACT ENTITLED: MAN ACT TO REVISE THE LAW 5 benefit to any other person or entity in whose welfare he is 5 RELATING TO CRIMES; AMENDING SECTION 45-2-101. MCA. TO interested, but not an advantage promised generally to a 6 6 CLARIFY ITS APPLICATION; AND REPEALING SECTION 34-112. 7 group or class of voters as a consequence of public measures 7 which a candidate engages to support or oppose. A. R.C.N. 1947." 8 9 (5) "Bodily injury" means physical pains illness, or 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 any impairment of physical condition and includes mental 10 Section 1. Section 45-2-101, MCA, is amended to read: 11 illness or impairment. 11 #45-2-101. General definitions. Unless otherwise 12 (6) "Cohabit" means to live together under the 12 specified in the statute, all words will be taken in the 13 representation of being married. 13 objective standard rather than in the subjective, and unless 14 (7) "Common scheme" means a series of acts or 14 a different meaning plainly is required, the following 15 omissions motivated by a purpose to accomplish a single 15 definitions apply in-this-title IN_IHIS_IIILE: criminal objective or by a common purpose or plan which 16 16 (1) "Acts" has its usual and ordinary grommatical 17 results in the repeated commission of the same offense or 17 meaning and includes any bodily movement. any form of 19 affects the same person or the same persons or the property 19 communication, and where relevant, a failure or omission to thereof. 19 19 20 take action. 20 (8) "Conduct" means an act or series of acts and the (2) "Administrative proceeding" means any proceeding 23 accompanying mental state. 21 the outcome of which is required to be based on a record or 22 (9) "Conviction" means a judgment of conviction or 22 documentation prescribed by law or in which a law or a sentence entered upon a plea of guilty or upon a verdict or 23 23 regulation is particularized in its application to an finding of guilty of an offense rendered by a legally 24 24 constituted jury or by a court of competent jurisdiction individual. 25 25

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1 (13) "Deprive" means to withhold property of another: 2 (a) permanently; (b) for such a period as to appropriate a portion of 3 4 its value; (c) with the purpose to restore it only upon payment 5 of reward or other compensation; or 6 (d) to dispose of the property and use or deal with T the property so as to make it unlikely that the owner will 8 q recover it. (14) "Deviate sexual relations" means sexual contact or 10 11 sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal. 12 13 (15) "Felony" means an offense in which the sentence 14 imposed upon conviction is death or imprisonment in the 15 state prison for any term exceeding 1 year. (16) "Forcible felony" means any felony which involves 16 17 the use or threat of physical force or violence against an 18 individual. (17) A "frisk" is a search by an external patting of a 19 person's clothing. 20 (18) "Government" includes any branch, subdivision, or 21 agency of the government of the state or any locality within 22 it. 23 (19) "Harm" means loss, disadvantage, or injury or 24 anything so regarded by the person affected, including toss, 25

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1 disadvantage, or injury to any person or entity in whose
2 welfare he is interested.

3 (20) A "house of prostitution" means any place where
4 prostitution or promotion of prostitution is regularly
5 carried on by one or more persons under the control;
6 management; or supervision of another.

7 (21) "Human being" means a person who has been born and
 9 is alive.

9 (22) An "illegal article" is an article or thing which 10 is prohibited by statute, rule, or order from being in the 11 possession of a person subject to official detention.

12 (23) "Inmate" means a person who engages in 13 prostitution in or through the agency of a house of 14 prostitution.

(24) "Intoxicating substance" means any controlled 15 substance as defined in Title 50, chapter 32, and any 16 alcoholic beverage, including but not limited to any 17 peverage containing 1/2 of 1% or more of alcohol by volume. 19 The foregoing definition shell does not extend to 19 dealcoholized wine or to any beverage or liquid produced by 20 the process by which beer, ale, port, or wine is produced if 21 22 it contains less than 1/2 of 1% of alcohol by volume.

23 (25) An "involuntary act" means any act which is:

24 (a) a reflex or convulsion;

25 (b) a bodily movement during unconsciousness or sleep;

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(c) conduct during hypnosis or resulting from hypnotic
 suggestion; or

3 (d) a bodily movement that otherwise is not a product
4 of the effort or determination of the actor, either
5 conscious or habitual.

6 (26) "Juror" means any person who is a member of any 7 jury, including a grand jury, impaneled by any court in this 8 state in any action or proceeding or by any officer 9 authorized by law to impanel a jury in any action or 10 proceeding. The term "juror" also includes a person who has 11 been drawn or summoned to attend as a prospective juror.

12 (27) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described by a statute 13 defining an offense when he is aware of his conduct or that 14 15 the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute 16 17 defining an offense when he is aware that it is highly probable that such result will be caused by his conduct. 18 19 when knowledge of the existence of a particular fact is an 20 element of an offense, such knowledge is established if a person is aware of a high probability of its existence. 21 Equivalent terms such as "knowing" or "with knowledge" have 22 23 the same meaning.

(28) "Mentally defective" means that a person suffers
from a mental disease or defect which renders him incapable

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1 of appreciating the nature of his conduct.

2 (29) "Mentally incapacitated" means that a person is
3 rendered temporarily incapable of appreciating or
4 controlling his conduct as a result of the influence of an
5 intoxicating substance.

(30) "Hisdemeanor" means an offense in which the
r sentence imposed upon conviction is imprisonment in the
county jail for any term or a fine, or both, or the sentence
imposed is imprisonment in the state prison for any term of
1 year or less.

(31) "Negligently"--a person acts negligently with 11 12 respect to a result or to a circumstance described by a 13 statute defining an offense when he consciously disregards a 14 risk that the result will occur or that the circumstance 15 exists or if when he disregards a risk of which he should be 16 aware that the result will occur or that the circumstance 17 exists. The risk must be of such a nature and degree that to disregard it involves a gross deviation from the standard of 18 19 conduct that a reasonable person would observe in the actor's situation. "Gross deviation" means a deviation that 20 ٤1 is considerably greater than lack of ordinary care. Relevant terms such as "negligent" and "with negligence" 22 23 have the same meaning.

24 (32) "Obtain" means:

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1 of interest or possession whether to the offender or to 2 another; and

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9 (34) "Occupied structure" means any building, vehicle,
10 or other place suited suitable for human occupancy or night
11 lodging of persons or for carrying on business1 whether or
12 not a person is actually present. Each unit of a building
13 consisting of two or more units separately secured or
14 occupied is a separate occupied structure.

15 (35) "Offender" means a person who has been or is
16 Diable to be arrested, charged, convicted, or punished for a
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19 death or of imprisonment or <u>a</u> fine is authorized. Offenses
20 are classified as felonies or misdemeanors.

(37) "Official detention" means imprisonment resulting
from a conviction for an offense, confinement for an
offense, confinement of a person charged with an offense,
detention by a peace officer pursuant to arrest, detention
for extradition or deportation, or any lawful detention for

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the purpose of the protection of the welfare of the person detained or for the protection of society. Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

7 (38) "Official proceeding" means a proceeding heard or 8 which may be heard before any legislative, judicial, 9 administrative, or other governmental agency or official 10 authorized to take evidence under oath, including any 11 referee, hearing examiner, commissioner, notary, or other 12 person taking testimony or deposition in connection with 13 such proceeding.

i4 (39) "Other state" means any state or territory of the
 15 United States, the District of Columbia, and the
 16 Commonwealth of Puerto Rico.

17 (40) "Owner" means a person other than the offender who 18 has possession of or any other interest in the property 19 involved, even though such interest or possession is 20 unlawful, and without whose consent the offender has no 21 authority to exert control over the property.

22 {41} "Party official" means a person who holds an 23 elective or appointive post in a political party in the 24 United States by virtue of which he directs or conducts or 25 participates in directing or conducting party affairs at any 1 level of responsibility.

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3 his office or public employment is vested by law with a duty
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(e) written instruments which represent or embody
 rights concerning anything of value, including labor or
 services, or which are otherwise of value to the owner;
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5 and things which are part of or affixed to any building;

6 (g) electricity, gas, and water;

7 (h) birds, animals, and fish which ordinarily are kept
8 in a state of confinement:

9 (i) food and drink, samples, cultures, microorganisms,
10 specimens, records, recordings, documents, blueprints,
11 drawings, maps, and whole or partial copies, descriptions,
12 photographs, prototypes, or models thereof; and

13 (j) any other articles, materials. devices substances, and whole or partial copies, descriptions, 14 photographs, prototypes, or models thereof which constitute, 15 represent, evidence, reflect, or record secret scientific, 16 17 technical. merchandising, production, or management 18 information or a secret designed process. procedures 19 formula, invention, or improvement.

20 (49) "Property of another" means real or personal 21 property in which a person other than the offender has an 22 interest which the offender has not no authority to defeat 23 or impair, even though the offender himself may have an 24 interest in the property.

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1 or any substantial group thereof has access.

z (51) "Public servant" means any officer or employee of 3 government, including but not limited to legislators, judges, and firefighters, and any person participating as a 4 juror, advisor, consultant, administrator, executor, 5 quardian, or court-appointed fiduciary. The term does not 6 include witnesses. The term "public servant" includes one 7 who has been elected or designated to become a public 8 9 servant.

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1 improperly, meddle with it, make unwarranted alterations in 2 its existing condition, or deposit refuse upon it. {62} "Threat" means a menace, however communicated, to: 3 4 (a) inflict physical harm on the person threatened or 5 any other person or on property; (b) subject any person to physical confinement or 6 7 restraint; 8 (c) commit any criminal offense; 9 (d) accuse any person of a criminal offense; 10 (e) expose any person to hatred, contempt, or ridicule: 11 (f) harm the credit or business repute of any person; 12 13 (a) reveal any information sought to be concealed by 14 the person threatened; 15 (h) take action as an official against anyone or anything, withhold official action, or cause such action or 16 withholding; 17 18 (i) bring about or continue a strike, boycott, or other similar collective action if the property is not 19 demanded or received for the benefit of the groups which he 20 . 21 purports to represent; or 22 (j) testify or provide information or withhold testimony or information with respect to another's legal 23 claim or defense. 24 25 (63) (a) "Value" means the market value of the

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property at the time and place of the crime or, if such cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value shall be determined as follows:

7 (i) The value of an instrument constituting an
8 evidence of debt, such as a check, draft, or promissory
9 note, snall be deemed <u>considered</u> the amount due or
10 collectible thereon or thereby, such figure ordinarily being
11 the face amount of the indebtedness less any portion thereof
12 which has been satisfied.

13 (ii) The value of any other instrument which creates, 14 releases, discharges, or otherwise affects any valuable 15 legal right, privilege, or obligation shall be deemed 16 <u>considured</u> the amount of economic loss which the owner of 17 the instrument might reasonably suffer by virtue of the loss 18 of the instrument.

19 (b) when it cannot be determined if the value of the 20 property is more or less than \$150 by the standards set 21 forth in subsection (63)(a) above, its value shall be deemed 22 considered to be an amount less than \$150.

(c) Amounts involved in thefts committed pursuant to a
 common scheme or the same transaction, whether from the same
 person or several persons, may be aggregated in determining

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1 the value of the property.

2 (64) "Vehicle" means any device for transportation by
3 land, water, or air or mobile equipment with provision for
4 transport of an operator.

5 (65) "Heapon" means any instrument, article, or
6 substance which, regardless of its primary function, is
7 readily capable of being used to produce death or serious
8 bodily injury.

9 (66) "Witness" means a person whose testimony is
10 desired in any official proceeding, in any investigation by
11 a grand jury, or in a criminal action, prosecution, or
12 proceeding."

13 Section 2. Repeater. Section 34-112. R.C.M. 1947. is 14 repeated.

-End-

HB 0006/03

HB 6

SENATE STANDING COMMITTEE REPORT

That House Bill No. 6 be amended as follows:

1. Page 1, line 16.
Following: "title"
Insert: "in this title"