

SENATE BILL NO. 54

INTRODUCED BY TOWE, J. BROWN, REGAN,
E. SMITH, BERGENE, ECK, BENGTON

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
January 12, 1985	On motion by Chief Sponsor, Senators Regan, E. Smith, Eck, Bengtson, and Representative Bergene added as sponsors.
January 16, 1985	On motion by Chief Sponsor, Representative J. Brown added as sponsor.
January 17, 1985	Committee recommend bill do pass as amended. Report adopted.
January 18, 1985	Bill printed and placed on members' desks.
January 19, 1985	Second reading, pass consideration.
January 21, 1985	On motion, taken from second reading and rereferred to Committee on Judiciary.
January 30, 1985	Committee recommend bill do pass as amended. Report adopted.
January 31, 1985	Bill printed and placed on members' desks.

February 1, 1985	Second reading, do pass.
February 2, 1985	Considered correctly engrossed.
February 4, 1985	Third reading, passed. Ayes, 33; Noes, 16.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Judiciary.
March 12, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 14, 1985	Second reading, concurred in as amended.
March 16, 1985	Third reading, concurred in. Returned to Senate with amendments.

IN THE SENATE

March 16, 1985	Received from House.
March 20, 1985	Second reading, amendments not concurred in. Ayes, 50; Noes, 0.
March 22, 1985	On motion, Conference Committee requested and appointed.
April 11, 1985	Conference Committee dissolved.

April 11, 1985

On motion, Free Conference Committee requested and appointed.

April 18, 1985

Free Conference Committee reported.

April 19, 1985

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted.

Free Conference Committee report adopted by House.

Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 54
2 INTRODUCED BY TOWE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE IT A FELONY TO
5 PURPOSELY OR KNOWINGLY ABUSE, NEGLECT, OR EXPLOIT A PERSON
6 60 YEARS OF AGE OR OLDER; AMENDING SECTIONS 53-5-503 AND
7 53-5-525, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 53-5-503, MCA, is amended to read:
11 "53-5-503. Definitions. As used in this part, the
12 following definitions apply:

13 (1) "Abuse" means the infliction of physical or mental
14 injury or the deprivation of food, shelter, clothing, or
15 services necessary to maintain the physical or mental health
16 of an older person without consent or lawful authority.

17 (2) "Exploitation" means the unethical use of an older
18 person, his money, or his property to the advantage of
19 another.

20 (3) "Long-term care facility" means a facility defined
21 in 50-5-101(20).

22 (4) "Mental injury" means an identifiable and
23 substantial impairment of an older person's intellectual or
24 psychological functioning or well-being.

25 (5) "Neglect" means the failure of a guardian,

1 employee of a public or private residential institution,
2 facility, home, or agency, or any other person legally
3 responsible in a residential setting for an older person's
4 welfare to care for an older person by failing to provide
5 food, shelter, clothing, or services necessary to maintain
6 the physical or mental health of the older person.

7 (6) "Older person" means a person who is at least 60
8 years of age.

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

12 Section 2. Section 53-5-525, MCA, is amended to read:

13 "53-5-525. ~~Penalty~~ Penalties. (1) Any person who
14 purposely or knowingly fails to make a report required by
15 53-5-511 or discloses or fails to disclose the contents of a
16 case record or report in violation of 53-5-513 is guilty of
17 a misdemeanor offense and upon conviction is punishable as
18 provided in 46-18-212.

19 (2) Any person who purposely or knowingly abuses,
20 neglects, or exploits an older person is guilty of a felony
21 offense and upon conviction must be fined an amount not to
22 exceed \$50,000 or be imprisoned in the state prison for a
23 term not to exceed 5 years, or both."

-End-



APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 54

INTRODUCED BY TOWE, J. BROWN, REGAN,

E. SMITH, BERGENE, ECK, BENGTON

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE IT A FELONY TO
PURPOSELY OR KNOWINGLY ABUSE, NEGLECT, OR EXPLOIT A PERSON
60 YEARS OF AGE OR OLDER; AMENDING SECTIONS 53-5-503 AND
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of an older person without consent or lawful authority.

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person, his money, or his property to the advantage of
another.

(3) "Long-term care facility" means a facility defined
in 50-5-101(20).

(4) "Mental injury" means an identifiable and
substantial impairment of an older person's intellectual or
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employee of a public or private residential institution,
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the physical or mental health of the older person.

(6) "Older person" means a person who is at least 60
years of age.

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temporary disfigurement, or impairment of any bodily organ
or function."

Section 2. Section 53-5-525, MCA, is amended to read:

"53-5-525. Penalty Penalties. (1) Any person who
purposely or knowingly fails to make a report required by
53-5-511 or discloses or fails to disclose the contents of a
case record or report in violation of 53-5-513 is guilty of
a misdemeanor offense and upon conviction is punishable as
provided in 46-18-212.

(2) Any person INDIVIDUAL who purposely or knowingly
abuses, neglects, or exploits an older person is guilty of a
felony offense and upon conviction must MAY be fined an
amount not to exceed \$50,000 or be imprisoned in the state
prison for a term not to exceed 5 years, or both."

-End-



RE-REFERRED AND
APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 54

INTRODUCED BY TOWE, J. BROWN, REGAN,
E. SMITH, BERGENE, ECK, BENGTSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE IT A FELONY
MISDEMEANOR TO PURPOSELY OR KNOWINGLY ABUSE, NEGLECT, OR
EXPLOIT A PERSON 60 YEARS OF AGE OR OLDER; AMENDING SECTIONS
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services necessary to maintain the physical or mental health
of an older person without consent or lawful authority.

(2) "Exploitation" means the unethical UNREASONABLE
use of an older person, his money, or his property to the
advantage of another BY MEANS OF DURESS, MENACE, FRAUD, OR
UNDUE INFLUENCE.

(3) "Long-term care facility" means a facility defined
in 50-5-101(20).

(4) "Mental injury" means an identifiable and
substantial impairment of an older person's intellectual or

psychological functioning or well-being.

(5) "Neglect" means the failure of a guardian,
employee of a public or private residential institution,
facility, home, or agency, or any other person legally
responsible in a residential setting for an older person's
welfare to care for an older person by failing to provide
food, shelter, clothing, or services necessary to maintain
the physical or mental health of the older person.

(6) "Older person" means a person who is at least 60
years of age AND UNABLE BECAUSE OF PHYSICAL OR MENTAL
CONDITION TO ADEQUATELY PROTECT HIMSELF OR HIS PROPERTY.

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

Section 2. Section 53-5-525, MCA, is amended to read:

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purposely or knowingly fails to make a report required by
53-5-511 or discloses or fails to disclose the contents of a
case record or report in violation of 53-5-513 is guilty of a
misdemeanor offense and upon conviction is punishable as
provided in 46-18-212.

(2) Any person INDIVIDUAL who purposely or knowingly
abuses, neglects, or exploits an older person is guilty of a
felony-offense MISDEMEANOR and upon conviction must MAY be
finned an amount not to exceed \$507,000 \$500 or be imprisoned

SECOND READING
SB 54

-2-

SB 0054/03

1 in the state prison COUNTY JAIL for a term not to exceed 5
2 years 6 MONTHS, or both."

-End-

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3 E. SMITH, BERGENE, ECK, BENGTON

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16 services necessary to maintain the physical or mental health
17 of an older person without consent or lawful authority.

18 (2) "Exploitation" means the ~~unethical~~ UNREASONABLE
19 use of an older person, his money, or his property to the
20 advantage of another BY MEANS OF DURESS, MENACE, FRAUD, OR
21 UNDOE INFLUENCE.

22 (3) "Long-term care facility" means a facility defined
23 in 50-5-101(20).

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25 substantial impairment of an older person's intellectual or

1 psychological functioning or well-being.

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3 employee of a public or private residential institution,
4 facility, home, or agency, or any other person legally
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13 temporary disfigurement, or impairment of any bodily organ
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18 53-5-511 or discloses or fails to disclose the contents of a
19 case record or report in violation of 53-5-513 is guilty of a
20 misdemeanor offense and upon conviction is punishable as
21 provided in 46-18-212.

22 (2) Any person INDIVIDUAL who purposely or knowingly
23 abuses, neglects, or exploits an older person is guilty of a
24 felony-offense MISDEMEANOR and upon conviction must MAY be
25 fined an amount not to exceed \$50,000 \$500 or be imprisoned

SB 0054/03

1 in the state prison COUNTY JAIL for a term not to exceed 5
2 years 6 MONTHS, or both."

-End-

STANDING COMMITTEE REPORT

HOUSE

March 12 1985

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 54

Third reading copy (Blue color)

FELONY TO ABUSE, NEGLECT, OR EXPLOIT A PERSON 60 OR MORE YEARS OLD

Respectfully report as follows: That Senate Bill No. 54

be amended as follows:

1. Title, line 7.
Strike: "A PERSON"
Insert: "CERTAIN PERSONS"
2. Page 1, line 17.
Strike: "without" through "authority"
3. Page 2, line 10.
Following: "age"
Strike: "AND" through "PROPERTY" on line 11.
Insert: ". For purposes of prosecution under this act, the person 60 years of age or older must be unable to protect himself from abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by advanced age"

~~XXXXXX~~
AND AS AMENDED,
BE CONCURRED IN

3/12

Tom Hannah
REP. TOM HANNAH, Chairman.

HOUSE

COMMITTEE OF THE WHOLE AMENDMENT

3-14-85

DATE

11:45

TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 54

third reading copy (blue) as follows:
Color

Amendment to House amendments of the Standing Committee
Report dated March 12, 1985:

1. Strike: Amendment 1 in its entirety.

KMK

ADOPT

REJECT

Rep. Bergene
Rep. Bergene

SENATE BILL NO. 54

INTRODUCED BY TOWE, J. BROWN, REGAN,
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MISDEMEANOR TO PURPOSELY OR KNOWINGLY ABUSE, NEGLECT, OR
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(2) "Exploitation" means the ~~unethical~~ UNREASONABLE use of an older person, his money, or his property to the advantage of another BY MEANS OF DURESS, MENACE, FRAUD, OR UNDUE INFLUENCE.

(3) "Long-term care facility" means a facility defined in 50-5-101(20).

(4) "Mental injury" means an identifiable and substantial impairment of an older person's intellectual or

psychological functioning or well-being.

(5) "Neglect" means the failure of a guardian, employee of a public or private residential institution, facility, home, or agency, or any other person legally responsible in a residential setting for an older person's welfare to care for an older person by failing to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person.

(6) "Older person" means a person who is at least 60 years of age ~~AND--UNABLE--BECAUSE--OF--PHYSICAL--OR--MENTAL--CONDITION--TO--ADEQUATELY--PROTECT--HIMSELF--OR--HIS--PROPERTY. FOR PURPOSES OF PROSECUTION UNDER [THIS ACT], THE PERSON 60 YEARS OF AGE OR OLDER MUST BE UNABLE TO PROTECT HIMSELF FROM ABUSE, NEGLECT, OR EXPLOITATION BECAUSE OF A MENTAL OR PHYSICAL IMPAIRMENT OR BECAUSE OF FRAILTIES OR DEPENDENCIES BROUGHT ABOUT BY ADVANCED AGE.~~

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

Section 2. Section 53-5-525, MCA, is amended to read:

"53-5-525. Penalty Penalties. (1) Any person who purposely or knowingly fails to make a report required by 53-5-511 or discloses or fails to disclose the contents of a case record or report in violation of 53-5-513 is guilty of a misdemeanor offense and upon conviction is punishable as



1 provided in 46-18-212.

2 (2) Any person INDIVIDUAL who purposely or knowingly
3 abuses, neglects, or exploits an older person is guilty of a
4 felony--offense MISDEMEANOR and upon conviction must MAY be
5 fined an amount not to exceed ~~\$50,000~~ \$500 or be imprisoned
6 in the state prison COUNTY JAIL for a term not to exceed 5
7 years 6 MONTHS, or both."

-End-

APR 18, 1985

MR. SPEAKER

We, your FREE Conference Committee on

SENATE BILL NO.54, reference copy,

met and considered , on April 17, Senate Bill No.54 in its entirety.

We recommend as follows:

That Senate Bill No.54, reference copy, be amended as follows:

- 1. Title, line 7.
Following: "PERSONS"
Strike: "A PERSON"
Insert: "CERTAIN PERSONS"
- 2. Page 1, line 17.
Following: "authority"
Insert: "without lawful authority. A declaration made pursuant to [section 3 of House Bill No.228] constitutes lawful authority"
- 3. Page 2, line 12.
Following: "UNDER"
Strike: "[THIS ACT]"
Insert: "53-5-525(2)"

FCCSB54

And that this Conference Committee report be adopted.

FOR THE SENATE

Thomas E. Rowe
TOWE

T. Mazurek
MAZUREK

Galt
GALT

ADOPT REJECT

FOR THE HOUSE

Bergene
BERGENE

Eudaily
EUDAILY

Miles
MILES

Spaeth
SPAETH

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17 services necessary to maintain the physical or mental health
18 of an older person ~~without--consent--or--lawful--authority~~
19 WITHOUT LAWFUL AUTHORITY. A DECLARATION MADE PURSUANT TO
20 [SECTION 3 OF HOUSE BILL NO. 228] CONSTITUTES LAWFUL
21 AUTHORITY.

22 (2) "Exploitation" means the unethical UNREASONABLE
23 use of an older person, his money, or his property to the
24 advantage of another BY MEANS OF DURESS, MENACE, FRAUD, OR
25 UNDUE INFLUENCE.

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14 years of age ~~AND--UNABLE--BECAUSE--OF--PHYSICAL--OR--MENTAL~~
15 ~~CONDITION--TO--ADEQUATELY--PROTECT--HIMSELF--OR--HIS--PROPERTY.~~ FOR
16 PURPOSES OF PROSECUTION UNDER ~~{THIS--ACT}~~ 53-5-525(2), THE
17 PERSON 60 YEARS OF AGE OR OLDER MUST BE UNABLE TO PROTECT
18 HIMSELF FROM ABUSE, NEGLECT, OR EXPLOITATION BECAUSE OF A
19 MENTAL OR PHYSICAL IMPAIRMENT OR BECAUSE OF FRAILTIES OR
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