



Select Montana Mandatory Minimum Laws

IMPORTANT NOTE: This is not necessarily a complete list. Laws frequently change, and these sentences may no longer be accurate or up to date. Talk with a lawyer in your state if you have questions.

Drug Offenses

Code Section	Offense	Mandatory Minimum Sentence
MCA § 46-18-205(2)(i) / § 45-9-101(2), (3), (5)(d)	Selling, bartering, exchanging, giving away, or offering to sell/barter/exchange/give away <ul style="list-style-type: none"> - any dangerous drug*, narcotic drug†, or opiate° - a dangerous drug included in Schedule I or Schedule II (see §§ 50-32-222 and 50-32-224), except marijuana or tetrahydrocannabinol, and the defendant has a prior conviction for criminal distribution of such a drug - a dangerous drug included in Schedule I or Schedule II (see §§ 50-32-222 and 50-32-224), except marijuana or tetrahydrocannabinol, and this is the defendant's third or subsequent conviction for criminal distribution of such a drug - any other dangerous drugs to a minor, and the defendant is an adult convicted under § 45-9-101(4) 	2 Years**
MCA § 46-18-205(2)(j) / § 45-9-102(4)	Possessing an opiate°	2 Years**
MCA § 46-18-205(2)(k) / § 45-9-103(2)	Possessing an opiate° with intent to distribute	2 Years**

* Dangerous drugs are defined as any drugs in Schedules I-V. For a complete list of Schedule I-V classifications, please see MCA § 50-32-222 – MCA § 50-32-232 at http://data.opi.mt.gov/bills/mca_toc/50_32_2.htm.

† Narcotic drugs are listed at § 50-32-101(18)(d), available at <http://data.opi.mt.gov/bills/mca/50/32/50-32-101.htm>.

° Opiate drugs are listed at § 50-32-101(19), available at <http://data.opi.mt.gov/bills/mca/50/32/50-32-101.htm>.

** These mandatory sentences can be avoided through two safety valve provisions. One, MCA § 46-18-222, applies to most mandatory minimum sentences, and is available at <http://data.opi.mt.gov/bills/mca/46/18/46-18-222.htm>. The other, MCA § 45-9-202, applies specifically to drug offenses, and is available at <http://data.opi.mt.gov/bills/mca/45/9/45-9-202.htm>. You can also view Montana Safety Valves at FAMM's website, www.famm.org.

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Weapons Offenses

Code Section	Offense	Mandatory Minimum Sentence
MCA § 46-18-221(1)	Committing any offense, other than an offense where use of a weapon is an element of the offense, while knowingly displaying, brandishing, or otherwise using a firearm, destructive device, or other dangerous weapon	2 Years*, added to the sentence for the underlying crime
MCA § 46-18-221(2)	Second or subsequent offense of committing any offense, other than an offense where use of a weapon is an element of the offense, while knowingly displaying, brandishing, or otherwise using a firearm, destructive device, or other dangerous weapon	4 Years*, added to the sentence for the underlying crime
MCA § 46-18-224(1)	Knowingly carrying or using a handgun loaded with armor-piercing ammunition during the commission of an offense in which bodily injury occurred, was attempted, or was threatened	5 Years*, added to the sentence for the underlying crime

* These mandatory sentences can be avoided through a safety valve provision. MCA § 46-18-222 applies to most mandatory minimum sentences, and is available at <http://data.opi.mt.gov/bills/mca/46/18/46-18-222.htm>, or view Montana Safety Valves at FAMM's website, www.famm.org.

Violent Offenses

Code Section	Offense	Mandatory Minimum Sentence
MCA § 46-18-205(2)(a) / § 45-5-103(4)	Mitigated deliberate homicide	2 Years*
MCA § 46-18-205(3) / § 45-5-102	Deliberate homicide	10 Years*
MCA § 46-18-205(2)(b) / § 45-5-202	Aggravated assault	2 Years*
MCA § 46-18-205(2)(c) / § 45-5-302(2)	Kidnapping	2 Years*
MCA § 46-18-205(2)(d) / § 45-5-303(2)	Aggravated kidnapping	2 Years*
MCA 46-18-205(2)(e) / § 45-5-401(2)	Robbery	2 Years*

*These mandatory sentences can be avoided through a safety valve provision. MCA § 46-18-222 applies to most mandatory minimum sentences and is available at <http://data.opi.mt.gov/bills/mca/46/18/46-18-222.htm>, or view Montana Safety Valves at FAMM's website, www.famm.org.



Habitual Offender Laws

Code Section	Offense	Mandatory Minimum Sentence
MCA § 46-18-219(1)(a)	<p>Defendant is convicted of any of the following crimes:</p> <ul style="list-style-type: none"> - Deliberate homicide - Aggravated kidnapping - Sexual intercourse without consent - Sexual abuse of children, or - Ritual abuse of a minor AND <p>Defendant has a prior conviction for one of these offenses or for an offense under the laws of another state or of the United States that, if committed in Montana, would be one of these offenses.</p>	Life without parole*†
MCA § 46-18-219(1)(b)	<p>Defendant is convicted of any of the following crimes:</p> <ul style="list-style-type: none"> - Mitigated deliberate homicide - Aggravated assault - Kidnapping - Robbery or - Aggravated promotion of prostitution, AND <p>Defendant has</p> <ul style="list-style-type: none"> - Two prior convictions for any of these offenses or - Two prior convictions for any combination of these offenses or - Two prior convictions for any combination of deliberate homicide, aggravated kidnapping, sexual intercourse without consent, sexual abuse of children, or ritual abuse of a minor or - Two prior convictions for offenses under the laws of another state or of the United States that, if committed in Montana, would be deliberate homicide, aggravated kidnapping, sexual intercourse without consent, sexual abuse of children, ritual abuse of a minor, mitigated deliberate homicide, aggravated assault, kidnapping, robbery, or aggravated promotion of prostitution 	Life without parole*†

* These mandatory sentences can be avoided through a safety valve provision. MCA § 46-18-222 applies to most mandatory minimum sentences, and is available at <http://data.opi.mt.gov/bills/mca/46/18/46-18-222.htm>, or view Montana Safety Valves at FAMM's website, www.famm.org.

† If the offender was previously sentenced for any of the prior crimes using the safety valve in MCA § 46-18-222, the life sentence does not apply.



Sex Offenses

Code Section	Offense	Mandatory Minimum Sentence
MCA § 46-18-205(1)(a) / § 45-5-503	Sexual intercourse without consent with a victim under the age of 16 when <ul style="list-style-type: none"> - the offender is more than 4 years older than the victim - the offender inflicts bodily injury upon anyone in the course of committing the assault - two or more people are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense - the offender has a prior conviction for an offense under § 45-5-503 or for an offense under the laws of another state or of the United States that, if committed in Montana, would be an offense § 45-5-503, and the offender inflicted serious bodily injury upon a person in the course of committing each offense 	30 Days*
MCA § 46-18-205(2)(g) / § 45-5-503(2), (3)	Sexual intercourse without consent when <ul style="list-style-type: none"> - the victim is under age 16, and the offender is more than 4 years older than the victim - the offender inflicts bodily injury upon anyone in the course of committing the assault - two or more people are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense - the offender has a prior conviction for an offense under § 45-5-503 or for an offense under the laws of another state or of the United States that, if committed in Montana, would be an offense § 45-5-503, and the offender inflicted serious bodily injury upon a person in the course of committing each offense 	2 Years**



Sex Offenses, cont.

Code Section	Offense	Mandatory Minimum Sentence
MCA § 46-18-205(1)(b) / § 45-5-504	Indecent exposure to a victim under the age of 16	30 Days*
MCA § 46-18-205(1)(c) / § 45-5-505	Deviate sexual conduct with a victim under the age of 16	30 Days*
MCA § 46-18-205(1)(d) / § 45-5-507	Incest with a victim under the age of 16	30 Days*
MCA § 46-18-205(2)(f) / § 45-5-502(3)	Sexual assault with a victim under the age of 16, and the defendant is at least 3 years older than the victim	2 Years**
MCA § 46-18-205(2)(h) / § 45-5-603	Aggravated promotion of prostitution	2 Years**

*The safety valve in MCA § 46-18-222 is not available for these crimes.

** These mandatory sentences can be avoided through a safety valve provision. MCA § 46-18-222 applies to most mandatory minimum sentences, and is available at <http://data.opi.mt.gov/bills/mca/46/18/46-18-222.htm>, or view Montana Safety Valves at FAMM's website, www.famm.org.