

1 SENATE BILL NO. 210

2 INTRODUCED BY C. GLIMM, T. MCGILLVRAY, K. REGIER, D. LENZ, B. BROWN, J. HINKLE, T.
3 MANZELLA, M. NOLAND, S. HINEBAUCH, D. BARTEL, B. USHER, J. FULLER, T. MOORE, B. LER, B.
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6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING CONSENT AS A
7 LEGAL DEFENSE; PROVIDING THAT PHYSICIAN AID IN DYING IS CONTRARY TO PUBLIC POLICY;
8 PROVIDING THAT CONSENT TO PHYSICIAN AID IN DYING IS NOT A DEFENSE TO A CHARGE OF
9 HOMICIDE; DEFINING "PHYSICIAN AID IN DYING"; AND AMENDING SECTION 45-2-211, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 45-2-211, MCA, is amended to read:

14 **"45-2-211. Consent as defense.** (1) The consent of the victim to conduct charged to constitute an
15 offense or to the result ~~thereof~~ of it is a defense.

16 (2) Consent is ineffective if:

17 (a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute
18 the offense;

19 (b) it is given by a person who by reason of youth, mental disease or disorder, or intoxication is
20 unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the
21 offense;

22 (c) it is induced by force, duress, or deception;

23 (d) it is against public policy to permit the conduct or the resulting harm, even though consented to;

24 or

25 (e) for offenses under 45-5-502, 45-5-503, 45-5-508, 45-5-601, 45-5-602, 45-5-603, or Title 45,
26 chapter 5, part 7, it is given by a person who the offender knew or reasonably should have known was a victim
27 of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which
28 caused the person to be in the situation where the offense occurred.

