



Annual Security & Fire Safety Report
2021



Contents

About the Report	4
How to Report a Crime	5
Campus Security Personnel	5
Importance of Reporting Criminal Activity	5
Voluntary Confidential Reporting	6
Campus Security Authorities.....	6
Timely Warning & Emergency Notifications.....	7
Safety and Security Awareness.....	8
Campus Security and Access.....	10
Behavioral Intervention Team	10
Policies and Programs Addressing Dating Violence, Domestic Violence, Sexual Assault, and Stalking ..	11
Retaliation Prohibited	11
FVCC Policy Definitions of Dating Violence, Domestic Violence, Sexual Assault and Stalking	11
In Case of a Domestic Violence, Dating Violence, Sexual Assault, or Stalking.....	18
Educational Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault and Stalking ...	21
Bystander Intervention	22
Risk Reduction.....	23
Sex Offenders.....	24
Alcohol & Substance Abuse Prevention.....	24
Social, Academic, and Personal Risks of Substance Abuse	28
Emergency Contacts	28
In Case of a Missing Person.....	28
Parent Notification.....	28
In Case of an Active Shooter	29
In Case of a Bomb Threat.....	30
Compiling Crime Statistics for the Annual Clery Disclosure.....	31
FVCC Crime Statistics: Clery Data.....	32
LCC Crime Statistics: Clery Data	33
Definition of Clery Geography	34
Definition of Crime Categories Under Federal Law	34
Definition of Crime Categories Under Montana Law.....	37
State of Montana Laws on Alcohol and Other Illegal Drugs	44

Fire Safety Report for Calendar Year 2020	58
In Case of a Fire.....	58
Fire Reporting and College Response to Arson.....	59
On-Campus Student Housing Fire Statistics for Calendar Years 2018, 2019, 2020.....	60
Fire Safety Rules.....	61
Prohibited Acts.....	61
Fire Extinguishers.....	61
Fire Sprinkler System	62
Fire Alarm System	62
Fire Drills	62
Plans for Future Improvements in Fire Safety	62

Separate Campuses

All policy statements contained in this report apply to both campuses unless otherwise indicated.

FVCC’s non-discrimination policy

Flathead Valley Community College is committed to providing a learning and working environment that emphasizes the dignity and worth of every member of its community and that is free from discrimination, harassment, and retaliation based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation (taken together, “protected-class harm”). Please direct any inquiries regarding FVCC’s nondiscrimination policy or procedures to the Title IX Coordinator at TitleIXCoordinator@fvcc.edu.

Flathead Valley Community College (FVCC) Annual Security and Fire Safety Report for Reporting Year 2020 (all campuses)

About the Report

This report includes statistics for the previous three years concerning reported crimes that occurred on-campus, non-campus property owned or controlled by FVCC, and on public property within, or immediately adjacent to and accessible from the campus. These statistics are located on pages 32-33. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092 (f)) is a federal law that requires colleges and universities to disclose information about crime on and around their campuses. The following pages provide crime rates and statistics for the 2018, 2019, and 2020 calendar years as required by law. This report also includes fire safety information on pages 58-62. Additionally, this report is intended to be a campus safety resource guide.

The Clery Act requires that the following “Clery crimes” be reported:

- Murder and Non-Negligent Manslaughter
- Negligent Manslaughter
- Sex Offenses
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Domestic Violence
- Dating Violence
- Stalking
- Hate Crimes

Criminal Offenses are defined as outlined by the U.S. Department of Justice, FBI National Incident-Based Reporting System on pages 34-37.

Under the Clery Act, FVCC is required to report annual crime statistics showing reported occurrences of specified types of crime for the benefit of current/prospective students and employees.

How the crime report is disseminated

The Clery Act stipulates that FVCC notify all current and prospective students, faculty, and staff of the availability of this report no later than October 1, 2021. The report can be retrieved from FVCC’s website at www.fvcc.edu/campus-safety. No later than October 1, 2021, an email notification providing the URL address for the report will be sent to all current students, faculty, and staff at FVCC. Printed copies of the report are available upon request from the Dean of Student Financial Services and Compliance by calling 406.756.3843. Current and prospective students and employees can access the report by clicking “Campus Safety” at www.fvcc.edu followed by “2021 Annual Security & Fire Safety Report” located below “Resources and Reports.”

How to Report a Crime

To report a crime that has taken place on or off campus, the Kalispell Police Department (or Libby Police Department, if the incident occurred in Libby) should be contacted. FVCC highly encourages accurate and prompt reporting. For emergencies, call 911. To report a criminal complaint that is not an emergency, the phone number for the Kalispell Police Department Dispatch Center is 406.758.7780. To reach the Libby Police Department, contact the Lincoln County Sheriff Department at 406.293.4112. Afterwards, call the Campus Resources Officer at 406.407.1558 (during business hours) or the Campus Incident Line at 406.207.4555 (on evenings or weekends). The Director of Facilities Operations or another member of the FVCC Command Team staffs the Campus Incident Line. To report a non-life-threatening crime or campus incident, complete and submit an [Incident Report](#) form available at www.fvcc.edu/campus-safety within 24 hours.

Preventing crime is everyone's responsibility. If you suspect a crime has been committed or is being committed, call 911 immediately for an emergency or for a non-emergency, call 406.407.1558 (weekdays) or 406.270.4555 (evenings and weekends).

If you are a victim or witness of a crime, report the incident immediately to the Kalispell Police Department Dispatch Center 406.758.7780 or Lincoln County Sheriff's Department at 406.293.4112 or call the Campus Resource Officer at 406.406.1558 (weekdays) or the Campus Incident Line at 406.270.4555 (evenings and weekends). If you can, gather pertinent information, such as sex, race, hair color, length and texture, body size, clothing description, scars and other notable characteristics, modes of travel, type of vehicle, color and license information.

If you see anyone acting suspiciously, call 911. Do not approach the individual yourself. Report the type of suspicious behavior and the location. Relay pertinent information concerning the involved person including age, sex, clothing, vehicle, and direction of travel.

Campus Security Personnel

On-campus law enforcement presence exists with the addition of a Campus Resource Officer through a partnership and signed Memorandum of Understanding with the Kalispell Police Department. The Campus Resource Officer, who is a sworn officer and able to make arrests, is located in LRC 152. Students and employees may also call the Campus Resource Office at 406.756.4815 with any questions and concerns.

Criminal incidents are referred to the Kalispell Police Department (KPD) or the Libby Police Department/Lincoln County Sheriff's Department. FVCC does not have an official memorandum of understanding written with the Flathead County Sheriff's Office, Libby Police Department, or the Lincoln County Sheriff's Department; however, these agencies, in addition to the KPD, work closely with FVCC and respond quickly to requests made to them.

Importance of Reporting Criminal Activity

FVCC and LCC do not have campus security officers. Therefore, students, faculty, staff, and guests are strongly encouraged to report all criminal and suspicious activities to the Kalispell Police Department (or

the Campus Resource Officer) or Lincoln County Sheriff's Department and College officials in a timely manner.

Prompt reporting of criminal activity enables College officials and local law enforcement officials to more effectively protect the safety of the entire community. Reporting criminal activity also ensures inclusion in the annual crime statistics and aids in providing timely warning notices to campus. All reports of criminal activity will be investigated. No matter how insignificant the incident may seem, the information students, faculty, staff, and guests provide can be helpful in an investigation.

Voluntary Confidential Reporting

Voluntary, confidential crime reporting can be made to the Dean of Students, the Mental Health Counselor or the Campus Resource Officer. The confidential report is to comply with a student's wish to keep the matter confidential while still taking the steps to ensure the safety of the student and others.

With this information, the College can keep an accurate record of the number of incidents involving students, employees and visitors; determine where there is a pattern of crime with regard to a particular location, method or assailant; and alert the campus community to potential danger. Reports in this manner are counted and disclosed in the annual crime statistic for the institution.

Campus Security Authorities

Students and employees should report criminal offenses described in the annual report to designated Campus Security Authorities (CSAs) or local law enforcement for the purpose of making timely warning reports and annual statistical disclosure. Under the Clery Act, FVCC must designate certain individuals as CSAs. CSAs are officials who have significant responsibility for student and campus activities, individuals responsible for security, and individuals designated to receive crime reports. At FVCC, CSAs include the advisors of student organizations, campus resource officer, community center assistants (Founders Hall), dean of students, director of facilities operations, director of global programs, director of student services, executive director of human resources, food pantry assistants, manager of custodial services, program director of Lincoln County Campus, recreation and wellness program coordinator, residence life coordinator, resident assistants, Title IX advisors, Title IX coordinator, student engagement coordinator, and student wellness team. CSAs should report crimes using an [Incident Report](#) form available at www.fvcc.edu/campus-safety or by clicking "Campus Safety" and then scrolling down to "Reporting Problems" on the FVCC website. Crimes reported to any CSA will be included in the annual crime statistics.

Students may contact any CSA for appropriate assistance in reporting crimes. Confidentiality of crime reports made to CSAs cannot be promised. Clery requires statistical reporting, but CSAs are also reporters under the requirements of Title IX and as such may not be able to maintain confidentiality. There may be instances where the College must act regardless of the wishes of the complainant or reporter. In such cases, FVCC will take care to protect identities to the extent allowed by the circumstances and law.

According to the Clery Act, professional mental health counselors who appropriately credentialed and hired by the College to serve exclusively in a counseling role are not considered CSAs. However, the

College encourages its professional mental health counselor(s) to notify those whom they are counseling of the voluntary, confidential reporting options available to them.

Identified CSAs are provided yearly training in September through an annual reminder notification, educational video, and corresponding quiz sent on August 30, 2021.

The Campus Resource Officer keeps a daily crime log available in LRC 152. All crimes are reported, though the names of victims and suspects are redacted and locations are generalized to preserve the confidentiality of individuals.

Timely Warning & Emergency Notifications

FVCC will issue timely warnings or emergency notifications to the campus community in the event that violent crimes or significant emergencies pose a serious or continuing threat to campus.

Per the requirements of the Clery Act, FVCC will “immediately notify the campus community upon confirmation of a significant emergency or dangerous situation occurring on the campus that involves an immediate threat to the health or safety of students or employees.”

In the event that a situation arises, either on or off campus, that, in the judgment of the President, the Campus Resource Officer, the Dean of Students or other members of the Command Team (Vice President of Academic & Student Affairs, Vice President of Administration & Finance, Command Team Coordinator/Associate Professor of Criminal Justice, Director of Paramedicine, Director of Facilities Operation, Executive Director of Communications and Marketing, Counselor, Executive Director of Human Resources, and Executive Director of Information Technology), constitute a serious or continuing threat, a campus wide timely warning and/or emergency notification will be issued.

FVCC will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgement of the responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency.

Types of emergencies that may cause an immediate threat to the community and would warrant an emergency notification could include, but are not limited to, a norovirus outbreak, earthquake, gas leak, armed intruder or chemical spill.

After reviewing factors such as the nature of the crime, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts, the Command Team will decide whether to issue a timely warning as well as determine the audiences in the campus community to receive the notice and whether the information should be provided to the larger community.

Timely warnings will be issued as soon as pertinent information is available and may be issued for such crimes as murder, manslaughter, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson or hate crimes.

Timely warnings related to criminal activity are also sent to the local law enforcement agency.

Notifications will be issued through the college's Omnilert emergency notification service that notifies all subscribers of the situation via text, email and/or phone message(s). Updates to the campus community regarding a timely warning or emergency notification may be distributed via email, posted on the FVCC website, pushed through FVCC social media, or may be posted on campus buildings. The alerts are generally written and distributed by the Executive Director of Communications and Marketing or a member of the Command Team.

Timely warnings will typically include information such as a brief statement of the incident, physical description of any suspect, appropriate safety tips, and other relevant, available information. The warnings will withhold the name of the victim as confidential.

College closures due to poor weather conditions are also issued through Omnilert.

All student, faculty, and staff college-issued email addresses are automatically set to receive emergency notifications. Students and employees may update their Omnilert account to include a cell phone, landline or an alternative email address by visiting www.fvcc.edu and logging onto the respective student, faculty, or staff portal followed by "e2Campus Sign-In" or by visiting www.fvcc.edu/campus-safety and click on "Emergency Notification System."

The College typically tests its emergency notification system at least once a year, and tests may be unannounced. All students and employees receive a link to the Annual Security Report each year which includes the evacuation procedures on page 8-9. Fire evacuation drills are held in Founders Hall and the Early Childhood Center on regular basis as listed on page 62.

Throughout the pandemic, students and employees were informed of closures and the availability of resources, testing, vaccines, safety protocols, and support through messages sent via Omnilert, *This Week at FVCC* student and employee email newsletters, a direct link to the [COVID-19 landing page](#) by clicking the "COVID-19" button located at the top of the FVCC website, www.fvcc.edu, or by visiting www.fvcc.edu/covid).

Safety and Security Awareness

FVCC posts emergency procedures flip charts in its classrooms, community rooms, and staff and faculty offices. The flip chart outlines the steps for students, employees, and campus guests to follow should a situation such as severe weather, tornado, fire, evacuation, facility emergency, suspicious item, medical emergency or other medical conditions, assisting a person with disabilities, earthquake, bomb threat, or active shooter. For example, in case of an evacuation, the procedures are listed below.

Evacuation and Designated Rally Points

If it becomes necessary to evacuate a building, an announcement will be made to that effect.

Evacuation maps are posted throughout the campus.

- If it is not safe to do so, do not leave your building until you are instructed via the emergency notification system or from your building coordinator.
- Before entering stairwells or hallways, especially during a fire, check the door to see if it is hot or whether there is smoke. If either condition exists, use an alternative route.
- If you are away from your office, follow the instructions given by the building coordinator, report to the designated area and check in with a building emergency coordinator in that area.

- Do not re-enter the building until an “all clear” has been called.
- You should stay at least 300 feet (length of a football field) away from affected buildings.
- Designated rally points for evacuation include:
 - Arboretum—tree area behind Blake Hall
 - Parking Lot I—the parking lot between the Learning Resource Center and Hwy 93
 - Grass Lot—the grass lot along the Northwest corner of LCC parking lot

The [emergency procedures](#) are also available online at www.fvcc.edu/campus-safety under “Emergency Procedures.” At least once a year, the campus Safety Committee posts safety tips in the *Privy Press*, the weekly restroom stall bulletin. Safety procedures and/or table top discussions are typically presented and reviewed annually during a college-wide in-service, Command Team meeting or Safety Committee meeting. The Safety Committee, which meets monthly during the academic year, reviewed the updated emergency procedures in February 2018. Annual safety drills or trainings include, but are not limited to, Run, Lock, Fight and the Great Montana ShakeOut (an announced earthquake drill). FVCC partners with the Kalispell Police Department to facilitate Run, Lock, Fight training. FVCC employees are also provided the opportunity to receive free AED/CPR training at least once a year. Employees who work with hazardous materials participate in annual hazardous material safety training. Scheduled drills held in 2020 (excluding fire drills—see page 62) are as follows:

Date	Time	Type of Drill	Location
October 15	10:15am	Earthquake	FVCC and LCC

Students living in Founders Hall receive safety tips and reminders in the [Residence Life Handbook](#) and throughout the year by the Coordinator of Residence Life and Resident Assistants. Initial programming includes the importance of not propping doors open or letting non-residents/unattended guests into the building. Additionally, signs posted throughout Founders Hall reminds residents of safety protocols.

Throughout the year, the Campus Resource Officer provides safety-related presentations such as deescalating upset individuals, recognizing drugs and drug paraphernalia, and handling intruders as requested for various instructors or departments including Residence Life.

General safety awareness training presentations and interactive educational activities held in 2020 included the following:

Date	Topic	Presented By	Audience
January 15	CPR, AED & Choking	Nursing Department	Employees
January 15	QPR Suicide Awareness	Mental Health Counselor	Resident Assistants
January 17	Run, Lock, Fight	Campus Resource Officer	Employees
February 3	Be an ACTIVE Bystander <i>Privy Press</i> article	Student Wellness Team	Campus Community
March 4	Step UP! Bystander Intervention	Student Wellness Team	Residents in Founders Hall

March 12	Step UP! Bystander Intervention	Student Wellness Team	Students
March 18	Step UP! Bystander Intervention	Student Wellness Team	Students
August 12	Step UP! Bystander Intervention	Student Wellness Team	Resident Assistants
August 13	Fire Extinguisher Training	Mahugh Fire & Safety	Residence Life Staff, Custodial Staff, Trades & Industrial Arts Division
August 18	Run, Lock, Fight	Campus Resource Officer	Resident Assistants and Employees
October	Fighting Flames Bulletin Board	Founders Hall Community	Founders Hall Residents

FVCC also partnered with [CampusWell](#), an interactive online health and wellness magazine and mobile app designed specifically for college students. Each week, new content is available via the online magazine app. Additionally, a new informative flyer is posted in every bathroom stall each week. CampusWell covers a variety of college health, wellness and safety issues including alcohol and other drugs, fitness and nutrition, stress, sleep, mental health, nutrition, sexual health, consent, colds, flu, and more.

Campus Security and Access

During business hours, FVCC and LCC are open to the public. However, Founders Hall is locked 24/7; residents and Founders Hall staff may enter the building anytime by using a key fob. During non-business hours, access to the College facilities is by key only. The maintenance and custodial staff ensure that the campus buildings are locked after hours. The maintenance staff also ensures that lighting on campus is working and that pathways are safe and kept clear during the winter season. In December, the building security and alarm systems throughout the FVCC campus were tested.

The Safety Committee meets monthly to report and address any safety concerns raised by the committee or through the safety suggestion box located by the restrooms in Blake Hall. The Safety Committee conducts regular building inspections on a monthly rotation to identify potential safety concerns or opportunities for improvement.

FVCC does not have any officially recognized student organizations with off-campus locations that are monitored by the College (such as fraternity or sorority houses).

Behavioral Intervention Team

The FVCC Behavioral Intervention Team (BIT) promotes campus safety and awareness using the message: Sense something? Say something. Do something. The team reviews reports received

regarding concerning behavior and determines the best course of action to support the individual and intervene before the behavior escalates. Any behaviors or activities of concern should be reported to the FVCC BIT Coordinator at 406.756.3812 or by submitting a [BIT referral form](#) online at www.fvcc.edu/campus-safety or emailing bit@fvcc.edu. Every member of the community helps to keep the FVCC campus healthy and safe.

Policies and Programs Addressing Dating Violence, Domestic Violence, Sexual Assault, and Stalking

Students, staff and faculty at FVCC have the right to live, learn, and work in an environment that is free from all forms of sexual misconduct (including sexual assault), domestic violence, dating violence, and stalking. Therefore, FVCC prohibits the crimes of dating violence, domestic violence, sexual assault and stalking.

Consequently, FVCC maintains policies and programs to prevent and address dating violence, domestic violence, sexual assault, and stalking as well as the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

FVCC's [Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy](#) (FVCC Board Policy Chapter 1, Section 60) and FVCC's [Code of Student Conduct](#) (FVCC Board Policy Chapter 7, Section 60) both prohibit such conduct. Both policies and corresponding procedures are available at www.fvcc.edu/current-student under "Policies and Procedures."

Under the [Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy](#), the definition of sexual harassment includes sexual assault, dating violence, domestic violence, and stalking. FVCC recognizes that these issues can impact anyone regardless of their sex, gender, gender identity, gender expression, or sexual orientation.

Retaliation Prohibited

The Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy prohibits retaliation against any person for reporting concerns, or filing, testifying, assisting or participating in any manner in investigation or proceedings involving allegations of violation of the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy. Retaliation is subject to the same [Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures](#) and same potential sanctions.

FVCC Policy Definitions of Dating Violence, Domestic Violence, Sexual Assault and Stalking

FVCC uses the definitions of dating violence, domestic violence, sexual assault, and stalking as stated in the Clery Act to determine crimes documented in this report. FVCC's definitions and the Montana criminal law definitions vary somewhat from the Clery Act definitions. The following are the definitions in the FVCC policy:

Sexual assault is defined as:

- a) Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
- b) Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- c) Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age¹ or because of temporary or permanent mental or physical incapacity.
- d) Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e) Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- f) Sex Offenses, Non-forcible:
 - i) Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Montana law.
 - ii) Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of sixteen.

Dating Violence is defined as: violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- a. For the purposes of this definition—Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence is defined as: violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Montana or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Montana.

- b. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

Stalking is defined as: engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to fear for the person’s safety, or the safety of others; or suffer substantial emotional distress.

- c. For the purposes of this definition— Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

- a. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is: knowing, and voluntary, and clear permission by word or action to engage in sexual activity.

- a. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.
- b. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.
- c. Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is

incapable of giving consent. It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

- a. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).
- b. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- c. This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Reporting Dating Violence, Domestic Violence, Sexual Assault, and Stalking

Reports to FVCC's Title IX Coordinator

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination in educational programs on the basis of actual or perceived sex, gender, and sexual orientation. The Title IX Coordinator is responsible for coordinating the College's compliance with Title IX and other federal and state laws prohibiting discrimination on the basis of a protected class. The Title IX responds to complaints of sex discrimination and sexual harassment, including dating violence, domestic violence, sexual assault and stalking.

Anyone can report concerns about potential discrimination or violence to the Title IX Coordinator. These reports are not confidential but are private student records protected under federal privacy law (FERPA). Reporting to the Title IX Coordinator does not mean a person is obligated to pursue any formal action or speak with law enforcement. Those who report to the Title IX Coordinator will be made aware of their rights, options, and resources and will receive assistance as reasonable and necessary to help the person be safe and continue to be successful at FVCC.

Reports can be made by phone, email, online, or in person.

Title IX Coordinator
Kelly S. Murphy, Dean of Students
Learning Resource Center, Room 151
Phone: 406-756-3812
Email: TitleIXCoordinator@fvcc.edu
Online Reporting: [Form](#)

Reports to Law Enforcement

FVCC encourages accurate and prompt reporting of all crimes to the campus resource officer and local law enforcement when the victim elects to, when there is an obligation under state law, or when

there is an emergency. Although FVCC strongly encourages all members of its community to report domestic violence, dating violence, sexual assault and stalking to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police. If the victim desires to report the matter to law enforcement, FVCC will provide assistance to the victim to make a report. FVCC encourages reporting to the campus resource officer or local enforcement as soon as possible, but if a student chooses not to report immediately, a report can be made later. A student can meet with the campus resource officer to learn more about their options, the process, the people involved and make an informed decision on pursuing criminal charges. If requested, College officials, such as the Dean of Students, is available to assist students in reporting to the campus resource officer or other law enforcement agencies.

Anyone can make a report to law enforcement at the following non-emergency numbers:

Campus Resource Officer: 406-407-1558
Kalispell Police Department Dispatch Center: 406-758-7780
Lincoln County Sheriff's Department: 406-293-4112

In an emergency, please dial 9-1-1.

Anonymous Reporting

Victims and bystanders (but not employees required to report) can make reports anonymously. Anonymous reports are accepted and can give rise to a need to investigate. The College tries to provide supportive measures to all Complainants, which may not be possible with an anonymous report. Because anonymous reporting carries no obligation to initiate a formal response, and as the College respects Complainants requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

Reports can be made anonymously to the Title IX Coordinator by calling 406-756-3812 or submitting a [Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Reporting Form](#) available at www.fvcc.edu/title-ix under "Procedure."

Required Reporting by FVCC Employees

To enable FVCC to respond proactively and effectively and to stop instances of discrimination, harassment and sexual misconduct involving members of the FVCC community, any person must promptly report information they have about discrimination, harassment, and/or sexual misconduct to the Title IX Coordinator. Employees, such as licensed health-care professionals who have a statutory privilege under Montana law, are exempt from this reporting requirement to the extent that the information communicated to them regarding discrimination, harassment or misconduct is privileged as a matter of law.

Amnesty for Drug or Alcohol Possession and Consumption

The College strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students or staff. Therefore, students who provide information in good faith about sex-based discrimination, sexual harassment or sexual misconduct

involving students or staff will not be disciplined by the College for any violation of FVCC's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures

FVCC recognizes the importance of the personal dignity and worth of every member of its community and is therefore committed to providing an environment that is free from discrimination, harassment, and retaliation based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation (taken together, "protected-class harm"). All reports and complaints of violation of FVCC's [Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy](#) are considered in accordance with FVCC's [Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures](#) available on the college website by clicking "Campus Safety" followed by "Title IX & Sexual Misconduct Information" and then "Procedure." These procedures include the following:

- A prompt, fair, and impartial investigation and resolution adhering to the principles of due process of such reports and complaints;
- A process conducted by officials who receive annual training on the issues related to discrimination, harassment, sexual misconduct, domestic violence, and stalking, including how to conduct investigations and hearings which protect the safety of victims and promote accountability;
- A process in which the accusing party (also referred to as complainant or reporting party) and the accused (also referred to as respondent or responding party) have the same opportunities to participate in the process, including the right to be accompanied by an advisor and the right to appeal;
- Policy violations are established when the evidence shows that it is more likely than not that the alleged conduct occurred (or preponderance of evidence);
- The outcome of the process, including the determination of whether a policy violation occurred and the sanction imposed, will be disclosed to both the accusing party and the accused; and,
- A written statement will be provided to any student or employee victim of sexual misconduct, dating violence, domestic violence, or stalking providing an explanation of their right under Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures.

If a student is found to have violated the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy and, thus, the Code of Student Conduct, the College may impose sanctions against the student. These sanctions may include a warning, required counseling, probation, suspension, expulsion, withholding diploma, revocation of degree or certificate, organizational sanctions, or other actions. Visit the FVCC [Code of Student Conduct](#) available on the college website by clicking "Current Students" and scroll down to "Policies and Procedures" for further information regarding sanctions. If an employee is found to have violated the Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policy, sanctions may include a warning, performance improvement / management process, required counseling, required training or education, probation, loss of annual pay increase, loss of oversight or

supervisory responsibility, change in assignment, demotion, suspension with pay, suspension without pay, termination, or other actions.

The Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Procedures provides that FVCC will disclose the outcome of any student disciplinary action related to violation of the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy to both the accusing student and the accused student. The outcome of a proceeding is the institution's final determination regarding whether there was a violation of the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy and the sanction imposed.

FVCC will disclose upon written request the results of any disciplinary proceeding to the alleged victim of a crime of violence or a non-forcible sex offense against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for the purpose of this disclosure.

Disclosure of the results of a proceeding to the accusing and the accused student in compliance with these provisions does not constitute a violation of the Family Educational Rights and Privacy Act of 1974 (FERPA).

Officials who are chosen to conduct investigations or proceedings to address allegations of dating violence, domestic violence, sexual assault and stalking receive annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability.

Notice / Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Policy, FVCC will initiate a prompt initial assessment to determine the next steps the College needs to take.

FVCC will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An informal resolution; and/or
- 3) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

Depending on the nature of the allegation, one of two processes will be followed as outlined in the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures—Process A or Process B. Process A applies to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, administrators, or faculty members. A set of technical dismissal requirements within the Title IX regulations may apply as described in the procedures, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using

these same grievance procedures, clarifying which policies above are applicable. While the effect of the Title IX regulations can be confusing, these grievance procedures apply to all policies above. Or, Process B. Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

Resolution Timeline

FVCC will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

In Case of a Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If an incident involving domestic violence, dating violence, sexual assault, or stalking occurs, the victim or witness should report the incident to the Title IX Coordinator or contact the Kalispell Police Department or Lincoln County Sheriff's Department as soon as possible. The Title IX Coordinator will assist the victim in notifying appropriate law enforcement authorities, if the victim requests the assistance of these personnel.

FVCC encourages the reporting of domestic violence, dating violence, sexual assault and stalking. Therefore, all employees (except the mental health counselor and licensed health care professionals in the Student Health Clinic) are considered responsible employees and are mandatory reporters for Title IX concerns of discrimination, harassment, sexual misconduct, stalking, and retaliation.

Reporting is the only way the College can provide remedial assistance, institute protection procedures for the victim and others, and take whatever actions are necessary to respond to the report. FVCC will provide victims written notification of their rights, options, resources, including counseling and victim advocacy. The written notification will also include how to request interim measure support including but no contact orders, assistance with housing, academic, transportation, and/or working accommodations, if they are reasonably available. This assistance is provided when it is reasonably available and requested by the victim, regardless of whether the victim chooses to report the crime to law enforcement.

Students have several options for reporting and are encouraged to use support services regardless of whether they choose to report. The following options are available to students:

- Report and pursue criminal charges through the local law enforcement agency (Kalispell Police Department at 406.758.7780, Flathead County Sheriff's Office at 406.758.5878 or Libby Police Department/Lincoln County Sheriff's Office at 406.293.4112);
- Report to the Title IX Coordinator at 406.756.3812. In cases where there is a violation of college policies, the perpetrator may be subject to disciplinary sanctions through the Dean of Students,

if the perpetrator is a student, or Executive Director of Human Resources, if the perpetrator is an employee;

- Report and pursue both criminal charges and initiate proceedings under the Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures;
- Report, but choose not to pursue criminal charges through the local law enforcement agency;
- Report and/or seek confidential support with the FVCC Mental Health Counselor located in LRC 129 or call 406.756.3880 or the Violence Free Crisis Line at 406.752.7273.;
- Do none of the above (however, the victim is still encouraged to seek support).

After an incident of domestic violence, dating violence or sexual assault, the survivor should consider seeking medical attention as soon as possible. Medical forensic evidence may be collected if a sexual assault occurred within 72 hours of the evidence collection. The survivor may request a sexual assault forensic exam at no cost and without having to file a police report. The costs of the evidence will be covered a part of Montana's Forensic Rape Examination Payment Program. Kalispell Regional Medical Center, located at 310 Sunny View Lane or call 406.752.5111, is the only location in Kalispell that conducts forensic examinations. A sexual assault nurse examiner will conduct the exam.

It is important that the victim of sexual assault does not bathe, douche, smoke, change clothing or clean the bed/linen/area where the victim was assaulted so that evidence may be preserved which may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order. In circumstance of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infections.

Survivors of sexual assault, domestic violence stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant message, social networking pages, other communications, and keeping pictures or other documents, if they have any, that would be helpful to College investigators or police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he or she should still consider speaking with the local law enforcement agency to preserve evidence in the event the survivor decides to report the incident to law enforcement or the College at a later date to assist in proving the alleged criminal offense occurred.

A victim wishing to maintain complete confidentiality may report to FVCC's licensed professional counselor in the Student Support Center, located in LRC 147A. The Violence Free Crisis Line, staffed 24 hours/day is also available to provide free support to students at 406.752.7273 in Flathead County. Lincoln County Crisis Solutions at 1.877.793.7139 is available to support students in Lincoln County.

If the accused violator is a student at FVCC, the incident may be reported to the Dean of Students. Although reports of discrimination, harassment, sexual misconduct, domestic violence, and stalking are referred to the Title IX Coordinator for investigation in accordance with FVCC's Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Grievance Procedures, the Dean of Students and Title IX Coordinator will work with students as necessary to take immediate steps

to protect the student's health and well-being, including providing informal consultation, issuing a no-contact order to the alleged perpetrator, adjusting classes to avoid contact with the perpetrator, providing other corrective and remedial assistance as outlined in the procedures. Students can contact the Dean of Students by calling 406.756.3812 or visiting LRC 151.

Usually, the decision to take action against the accused rests with the aggrieved student. However, there are certain circumstances in which the College must act if it receives a report that requires the College to protect the student and members of the community from repetition of the offense or to eliminate risk of future harm.

FVCC employees (except the FVCC mental counselor and FVCC Student Health Clinic healthcare providers) are required to report incidents of sexual misconduct. Employees who receive information concerning such conduct against a student are required to report this information to the Title IX Coordinator.

The College through the Title IX Coordinator in consultation with other campus officials may also take remedial action to prevent serious and immediate harm to the complainant and others; prevent retaliation against the complainant, the alleged perpetrator and/or witnesses; end discriminatory or harassing behavior and prevent its recurrence; and provide appropriate training in issues related to discrimination, sexual misconduct, domestic violence or stalking.

The Discrimination, Harassment, Sexual Misconduct, Stalking, and Retaliation Procedures provides that remedial action shall include but not be limited to:

- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a College –implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Relocating an on-campus student's housing to a different location
 - Assistance from FVCC staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation accommodations
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.

- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair FVCC’s ability to provide the supportive measures.

The aggrieved student may request a remedial action by contacting the Dean of Students and Title IX Coordinator at 406.756.3812. Employees may contact the Title IX Coordinator or Executive Director of Human Resources at 406.756.3841.

Victims may also seek orders of protection (e.g. no contact orders) through the local district court. The Violence Free Crisis Line provides referrals to the victims of crime such as domestic violence, stalking and sexual assault in obtaining protection or no contact orders. The Violence Free Crisis Line is staffed 24 hours/day and can be reached by calling 406.752.7273. The Lincoln County Crisis Solutions is also staffed 24 hours/day and can be reached by calling 406.293.3223.

Educational Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault and Stalking

FVCC provides primary prevention, risk reduction and awareness training for all new students and employees. In support of the Campus SAVE Act, FVCC requires all new degree-seeking students to complete Sexual Assault Prevention for Community Colleges within their first semester at FVCC. All returning and new non-degree-seeking students are encouraged, but not required to complete the interactive online course designed to provide students with facts and skill-based information on sexual assault prevention and bystander intervention tips. All students can access the sexual assault prevention courses by logging onto the student portal and clicking “AlcoholEdu|SAPC.”

Similarly, all new employees are required to complete an online sexual harassment prevention course. Both courses serve as the College’s primary prevention program to promote awareness and education students and employees about preventing dating violence, domestic violence, sexual assault and stalking. Additionally, in fall 2020, all employees were required to complete *Making Schools Safe and Inclusive for Transgender Students* through SafeColleges Training as a part of the College’s on-going prevention and awareness training.

The Student Engagement Coordinator works with the Violence Free Crisis Line, Student Health Clinic, College Mental Counselor, Student Wellness Team, and other resources to provide additional on-going educational awareness activities or events throughout the year on the Kalispell campus. Additionally, the Director of Residence Life and resident assistants (RAs) also facilitate on-going educational awareness activities through intentional programming in Founders Hall through the use of planned events and timely, informative bulletin boards on a variety of topics and resources.

The following presentations, professional development workshops, and events were held in 2020 in support of the College’s on-going prevention, education, and awareness training:

Date	Topic	Presented By/Sponsor	Audience
January 15	Trauma Informed Responses	Associate Professor of Education	Resident Assistants

February 6	Love Yourself, Protect Yourself (info table on the prevention of STDs)	Student Health Clinic	Students
February 26	One Love Foundation Escalation & Healthy Relationships Workshop	Student Wellness Team	Founders Hall residents
February 26	One Love Foundation Escalation & Healthy Relationships Workshop	Student Wellness Team	Students
February 27	One Love Foundation Escalation & Healthy Relationships Workshop	Student Wellness Team	Students
February 29	Break the Chain: Human Trafficking Symposium & Training	Native American Student Association and Love Lives Here	Students and community members
March 4	Step UP! Bystander Intervention	Student Wellness Team	Founders Hall residents
March 12	Step UP! Bystander Intervention	Student Wellness Team	Students
April 29	Denim Day	Student Wellness Team	Students
August 11	Step UP! Bystander Intervention	Student Wellness Team	Resident Assistants
August 13	Behind Closed Doors (Situational Scenarios)	Coordinator of Residence Life and Campus Resource Officer	Resident Assistants

FVCC also partnered with [CampusWell](#), an interactive online health and wellness magazine and mobile app designed specifically for college students, to complement existing FVCC student wellness programming. Each week, new content is available via the online magazine app. Additionally, a new informative flyer is posted in every bathroom stall each week. CampusWell covers a variety of college health, wellness and safety issues including alcohol and other drugs, fitness and nutrition, stress, sleep, mental health, nutrition, sexual health, consent, colds, flu, and more. Prevention and awareness topics pertaining to domestic violence, dating violence, sexual assault and stalking in 2020 included: *What to say to a friend who is sexually assaulted; How healthy is your relationship; Why reporting sexual assault is a complex and personal decision.*

Bystander Intervention

Bystanders play a critical role in the prevention of sexual and relationship violence. Bystander intervention is developing the awareness, skills, and courage needed to intervene in a situation when another individual needs help. Bystander intervention allows individuals to send a powerful message about what is and is not acceptable behavior in the campus community.

What can a bystander do? Step UP!

- Notice the event;
- Interpret if as a problem;
- Take responsibility for acting;
- Decide how to act; and
- Choose to act.

How? By utilizing one or more of the following five “D’s” of bystander intervention:

- **Direct:** Confront the situation. Be firm, clear and concise. If it is safe to intervene, consider saying “that’s inappropriate, disrespectful, or not okay.”
- **Distract:** Take an indirect approach to de-escalate the situation. For example, ignore the harasser and engage with the person being targeted by asking a random question (e.g. ask what time it is) or accidentally spill your drink to make a commotion.
- **Delegate:** Seek help from a third party. Ask a friend who knows the person to check-in or call for help if the situation is serious.
- **Delay:** If you can’t act in the moment, check-in with the individual being harassed after the fact. Ask if the individual is ok and how you can support the individual.
- **Document:** If it is safe to do so, document the incident as it happens. However, never livestream a video or post pictures online without the person’s permission.

For example, below is a list of ways to be an active bystander.

- Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
- Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to resources listed in this document for support.

Please note, if you or someone else is in immediate danger, call 911.

Risk Reduction

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one’s risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, www.rainn.org).

- Be aware of your surroundings. Knowing where you are and who is around you may help you find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don’t know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn’t the best place to be.
- Don’t allow yourself to be isolated with someone you don’t trust or someone you don’t know.

- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call.
- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately.
- Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
- If you don't want to hurt a person's feelings it is better to lie and make up a reason to leave an uncomfortable situation than to stay.

Sex Offenders

Montana's registry [sexual or violent offenders](https://app.doj.mt.gov/apps/svow/) can be found at <https://app.doj.mt.gov/apps/svow/>. Or, visit www.fvcc.edu/campus-safety, scroll down to "Resources and Reports" and click on "[Montana Sexual or Violent Offender Registry](#)."

Alcohol & Substance Abuse Prevention

It is illegal in Montana for anyone under the age of 21 to consume or be in possession of alcohol. It is also illegal for anyone to sell or provide alcohol to a person under the age of 21. FVCC prohibits the possession, use or distribution of any alcoholic beverage by employees or students in the workplace and/or while conducting college business except as authorized by FVCC Board Policy Chapter I, Section 80 [Alcohol Free Policy](#) available at www.fvcc.edu/about-fvcc/board-of-trustees/fvcc-board-policy under "Board Policy." The possession, use or distribution of alcohol is also prohibited in Founders Hall, regardless of the resident's age as stated in the [Residence Life Handbook](#) and [Code of Student Conduct](#). Students, organizations, or groups violating alcohol policies or laws may be subject to disciplinary actions by FVCC and/or the Kalispell Police Department or the Libby Police Department/Lincoln County Sheriff's Office.

Additionally, the use, possession, or distribution of illegal drugs is strictly prohibited at FVCC as stated in FVCC Board Policy Chapter 1, Section 70, [Drug Free Policy](#) and Chapter 7, Section 60 [Code of Student Conduct](#) and the [Residence Life Handbook](#). The possession, sale, manufacture or distribution of any controlled substance is illegal in Montana with the exception of the Montana-issued medical marijuana card. FVCC prohibits the use of marijuana on campus regardless of the presence of a state-issued medical marijuana card. Violators of illegal drug use, possession, or distribution will be turned over to the Kalispell Police Department or the Libby Police/Lincoln County Sheriff's Office and are subject to FVCC's disciplinary actions.

Student sanctions for students who violate these policies may include reprimand, probation, restorative justice measures, suspension, expulsion and/or restitution as well as required attendance or completion of educational and/or treatment programs.

Employee sanctions may include disciplinary measures up to and including termination.

FVCC is also a tobacco-free and e-cigarette-free campus as specified in FVCC Board Policy Chapter I, Section 85, [Smoking and Tobacco Free Policy](#), available at www.fvcc.edu/current-student under “Policies and Procedures” and the [Residence Life Handbook](#) available at www.fvcc.edu/campus-guide/student-housing under “Resources and Forms.”

FVCC provides alcohol and substance abuse prevention programming to both students and employees. Free counseling services are available for all students and employees who have alcohol and/or substance abuse issues. Students who have concerns about their alcohol or substance use should contact the FVCC Counselor, in LRC 147A, to receive counseling services. Employees should contact the Human Resources Office in Blake Hall for available resources.

All new degree-seeking students age 21 or younger are required to successfully complete AlcoholEdu for College: Primary (AlcoholEdu) within their first semester at FVCC. All other students are encouraged, but not required to complete AlcoholEdu, a science-based, interactive online program designed to provide students with facts and skill-based information on the consequences of alcohol abuse, including sexual assault and alcohol’s impact on the brain, body, and behavior. The program matches course content to each student based on his or her behavior, attitudes, and what he or she already knows about alcohol. Whether students choose to drink or not, AlcoholEdu is designed to encourage informed decision making about alcohol use as well as providing skills to respond to drinking and risk behaviors of friends and peers. AlcoholEdu is FVCC’s primary prevention program for alcohol education.

The Student Engagement Coordinator collaborates with the Student Health Clinic, Student Wellness Committee and other resources to provide additional educational awareness opportunities throughout the year. Additionally, the Director of Residence Life and resident assistants also facilitate on-going educational awareness activities through intentional programming in Founders Hall by using bulletin boards and creating planned events and safe alternative activities during the Super Bowl, for example.

Examples of the College’s efforts to provide ongoing alcohol and substance abuse prevention, education and awareness presentations and activities in 2020 included the following:

Date	Topic	Presented By/Sponsor	Audience
January 15	Drugs and Alcohol Understanding (drug recognition and proper protocols)	Campus Resource Officer	Residence Life Staff
February 18	Dip This, Not That (awareness of the effects of smokeless tobacco)	Student Wellness Team	Students

August 11	Understanding and Exploring Drugs and Alcohol (drug recognition and proper protocols)	Campus Resource Officer	Resident Assistants
-----------	---------------------------------------------------------------------------------------	-------------------------	---------------------

In effort to provide students with year-round support and education on a variety of health-related topics, FVCC partnered with [CampusWell](#) to offer students and employees access to weekly newsletters (in the campus bathroom stalls) and a mobile app with content updated weekly. CampusWell covers a variety of college health, wellness and safety issues including alcohol and other drugs, fitness and nutrition, stress, sleep, mental health, nutrition, sexual health, consent, colds, flu, and more. Alcohol and substance abuse education and prevention topics covered in 2020 included *What Effect Does Alcohol Have on Sleep?*

In support of the Drug Free Schools and Communities Act, information regarding the College’s educational programs related to drug and alcohol abuse prevention, sanctions and statistics for the violation of state and local laws and college policy, a description of health risks associated with alcohol and other drug use, and a description of available treatment options for FVCC students and employees in included in this report.

Health Effects of Alcohol and Other Drugs

The use and abuse of drugs and alcohol carry dangerous physical, emotional and psychological consequences including dependence, impaired judgment and coordination, increased aggression and violence, memory and speech problems, feelings of panic, confusion, paranoia and loss of control, permanent damage to vital organs, and death.

Alcohol

- Impairs judgment and coordination
- Hinders ability to learn and remember information
- Increases aggression and abusive acts
- High doses causes dependence, respiratory depression or death
- Withdrawal causes anxiety, nausea, hallucinations and convulsions
- Damages vital organs, such as the liver, permanently
- May lead to fetal alcohol syndrome when consumed by pregnant women

Cannabis (Marijuana)

- Reduces short-term memory and comprehension
- Produces paranoia and psychosis
- Damages lungs and respiratory system with inhalation of carcinogenic smoke
- Alters sense of time
- Increases heart rate

Hallucinogens (PCP, LSD)

- Cause sense of distance and space estrangement, illusions and hallucinations
- Create persistent memory problems and speech difficulties
- Induce violent episodes that result in self-inflicted injuries

- Produce negative psychological effects such as panic, confusion, suspicion, anxiety and loss of control
- Result in side effects such as dizziness, weakness, tremor, nausea and drowsiness

Narcotics (Codeine, morphine, opium, heroin)

- Produce feelings of euphoria followed by drowsiness, nausea and vomiting
- Create constricted pupils, watery eyes and itching
- Can be deadly in overdose, causing shallow breathing, clammy skin, convulsions and death
- Promote the transmission of AIDS, endocarditis and hepatitis through use of unsterilized syringes

Cocaine/Crack

- Cause constant stuffy, runny nose and possible perforated nasal septum
- Produce dilated pupils and elevated blood pressure, heart rate, respiratory rate and body temperature, followed by depression
- Extremely addictive and can cause delirium, hallucinations, blurred vision, severe chest pain, muscle spasms, convulsions and death

Designer Drugs (Ecstasy)

- Hundreds of times stronger than the drugs they're designed to imitate
- Cause symptoms similar to Parkinson's disease including tremors, drooling, impaired speech
- Can cause brain damage with as little as one dose

Stimulants (Speed, crystal meth, Ritalin)

- Produce elevated blood pressure and heart rates, decreased appetite, perspiration, headache, blurred vision, dizziness, sleeplessness and anxiety
- Cause physical collapse in high doses
- Can result in amphetamine psychosis in long-term users, which includes hallucinations, delusions and paranoia

Inhalants (Whippets, laughing gas, buzz bombs)

- Are mixtures of volatile substances, which makes it difficult to be specific about effects
- Can cause nausea, sneezing, coughing, nose bleeds, fatigue, lack of coordination, loss of appetite and involuntary passing of urine and feces
- May result in hepatitis, brain damage, nervous system damage, weight loss, fatigue, electrolyte imbalance and muscle weakness with long-term use

Depressants (Downers, Valium, Quaaludes)

- Have similar effects to alcohol
- Cause calmness in small amounts, slurred speech and staggering gait in large doses
- Can cause dependence with serious withdrawal symptoms such as restlessness, insomnia, convulsions and death

For more information regarding the effects of alcohol and other drugs, contact the Student Health Clinic at 406.756.4331.

Social, Academic, and Personal Risks of Substance Abuse

Social, academic, and personal risks are associated with students who drink alcohol, use illegal drugs or abuse prescription drugs which can directly or indirectly lead to:

- Social problems: driving under the influence, fighting, unwanted sexual contact, vandalism, trouble with authorities, or unsafe sexual behavior.
- Academic problems: poor grades, missed classes, memory loss, or falling behind in class work or projects.
- Personal problems: depression, illness and injury, experiencing unwanted attempted or completed sexual intercourse, suicide, being the victim of violence or racial harassment, or being unable to control drinking or drug use.

Emergency Contacts

For any type of emergency, first call 911 followed by the Campus Resource Officer at 406.407.1558 (weekdays) or the Campus Incident Line at 406.270.4555 (evenings and weekends).

In Case of a Missing Person

If someone has a concern that a student living in Founders Hall is missing, this concern should be reported to the Coordinator of Residence Life at 406.756.4586 or reslife@fvcc.edu. The Coordinator of Residence Life in collaboration with Dean of Students and other Residence Life staff will conduct a preliminary investigation in order to verify the situation and will obtain information around circumstances that relate to the student in question.

If a preliminary investigation is unsuccessful in locating the student and/or shows cause for concern (e.g. the student has been unaccounted for 24 hours), the Coordinator of Residence Life will immediately contact the Campus Resource Officer or the Kalispell Police Department for assistance and formal reporting. The Coordinator of Residence Life will notify the Kalispell Police Department when any student living in Founders Hall has been determined to be missing within 24 hours. The Dean of Students, or Coordinator of Residence Life, will notify the contact person(s) designated by the resident (confidentially during the move-in process and accessible only to authorized campus officials), within 24 hours of the determination that the student is missing, if the student has been determined missing by the Campus Resource Officer or the Kalispell Police Department. If the missing student is under 18 years of age and is not emancipated, the Dean of Students will also notify the student's parent or guardian.

Parent Notification

Montana is one of two states in the country where State privacy law is more restrictive than Federal privacy law. Montana Code Annotated 20-25-515-Release of student records prevent any State agency from releasing student records. When the Family Education Rights to Privacy Act (FERPA) was amended in 1998 to include parental notification provisions, the Montana University System determined that the above state law would prohibit such notification without the consent of the student.

In Case of an Active Shooter

If you observe an active shooter or armed intruder, when it is safe to do so, call 911.

There are three options during an active shooter incident:

- Run (get out)
- Lock (lockdown)
- Fight (prepare to defend/take out the intruder)

Run (Get Out)

- Leave the area if it is safe to do so, moving away from the shooter's location.
- Have an escape route and plan in mind.
- Leave your belongings behind.
- Help others escape, if possible.
- Prevent people from entering an area where an active shooter may be.
- Call 911 as soon as it is safe to do so.

Lock (Lockdown)

- If escape is not possible due to the location of the intruder or other complications, barricade yourself in the nearest safe location. Keep out of the shooter's view. Continue looking for accessible escape paths.
- Lock the door and cover the window. Block entry to the space by placing obstacles including large objects and furniture in front of the doorway.
- Turn off lights and monitors, and silence cell phones. Stay calm, quiet and out of sight.
- If the situation actively evolves and you can safely access an escape path, do so.
- Unless you are in imminent danger from fire, ignore any fire alarms sounding, but stay aware of your surroundings. Intruders may pull alarms to get people to come out of classrooms or buildings to become targets.
- If you are in a safe location and not currently in harm's way, stay in that area until directed to leave by responding law enforcement.
- During contact with law enforcement, keep your hands visible and follow directions exactly. Carry nothing that could be mistaken for a weapon.

Fight (Prepare to Defend /Take Out)

- As an absolute last resort, and only when in imminent danger, attempt to disrupt and/or incapacitate the shooter.
- Throw items and improvise weapons from available objects.
- Hit, kick, or tackle the shooter if close enough.
- Act with physical aggression.
- Commit to your actions.

What to expect from emergency responders:

- The first responding law enforcement officer(s) will not stop to aid the wounded or injured. Their primary mission is to contain the threat.
- Medical and rescue teams will begin treatment of the injured only after the area is declared safe by law enforcement personnel.

- Law enforcement may relocate building occupants to a safe area, or may instruct occupants to remain where they are.
- Once you have been evacuated, you will not be allowed to re-enter the building.

In Case of a Bomb Threat

Bomb threats are serious until proven otherwise. Act quickly, but remain calm and obtain information.

If a bomb threat is received by phone:

- Remain calm. Keep the caller on the line for as long as possible. DO NOT HANG UP, even if the caller does.
- Listen carefully. Be polite and show interest.
- Try to keep the caller talking to learn more information.
- If possible, write a note to a colleague to call 911 or, as soon as the caller hangs up, immediately notify them yourself.
- If your phone has a display, copy the number and/or letters on the window display.
- Complete a Bomb Threat Checklist (available in the Emergency Procedures flip chart located in all classrooms and offices) immediately. Write down as much detail as you can remember. Try to get exact words.
- Immediately upon termination of call, DO NOT HANG UP, but from a different phone, call 911 immediately with the information and await instructions.
- Next, call the Campus Resource Officer at 406.407.1558 (weekdays) or the Campus Incident Line at 406.270.4555 (evenings and weekends).

If a bomb threat is received by a handwritten note:

- Call 911 and then the Campus Resource Officer at 406.407.1558 (weekdays) or the Campus Incident Line at 406.270.4555 (evenings and weekends).
- Handle the note as minimally as possible.

If a bomb threat is received by email:

- Call 911 and then the Campus Resource Officer at 406.407.1558 (weekdays) or the Campus Incident Line at 406.270.4555 (evenings and weekends).
- Do not delete the message.

Signs of a suspicious package:

- No return address
- Strange odor
- Poorly handwritten
- Foreign postage
- Excessive postage
- Strange sounds
- Misspelled words
- Restrictive notes
- Stains
- Unexpected delivery
- Incorrect titles

DO NOT:

- Use two-way radios or cell phones. Radio signals have the potential to detonate a bomb.
- Touch or move a suspicious package.

If necessary, employees and students will be directed to evacuate the building via the emergency notification system or the building coordinator. If evacuated from the building, do not return until told to do so by your building coordinator.

Compiling Crime Statistics for the Annual Clery Disclosure

The Dean of Student Financial Services and Compliance, Dean of Students, and the Campus Resource Officer have compiled the crime statistics in this report. This report is prepared to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (the Clery Act). The statistics include all crimes reported to college officials, campus security authorities, the Kalispell Police Department, Flathead County Sheriff's Office, and Lincoln County Sheriff's Department. The totals include crimes reported which have occurred on campus, at non-campus properties owned or controlled by the College and used for educational purposes, and on public property such as streets and sidewalks immediately adjacent to the campus.

Statistics pertaining to referrals for disciplinary action reflect those incidents of alcohol, drugs, and weapons violations that were referred to the Coordinator of Residence Life or the Dean of Students for student disciplinary action.

Unfounded Crimes

Occasionally, an agency will receive a complaint that is determined through investigation to be false or baseless. In other word, no crime occurred. If the investigation shows that no offense occurred nor was attempted, then it must be classified as being unfounded. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with prosecution, or the failure to make an arrest does not unfound a legitimate offense. Also, the findings of coroner, court, jury, or prosecutor do not unfound offenses or attempts that law enforcement investigations establish to be legitimate.

US. Department of Justice, Federal Bureau of Investigation (2004) Uniform Crime Reporting Handbook pp 77,78.

The current reported crime statistics are located on pages 32-33.

FVCC Crime Statistics: Clery Data

The following crime statistics have been reported to appropriate law enforcement agencies or campus security authorities based on FVCC's Clery geography. The statistics reported for the sub-categories on liquor laws, drug laws, and weapons offenses represented the number of people arrested or referred to campus conduct for respective violations, not the number of offenses documented.

KALISPELL CAMPUS	On-Campus			ON-CAMPUS STUDENT HOUSING			NON-CAMPUS			PUBLIC PROPERTY		
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
CRIMINAL OFFENSES												
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	1	0	0	1	0	0	0	0	0	0	0
Fondling	1	0	0	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	1	0	0	1	0	0	0	0	0	0	0
Burglary	0	0	2	0	0	0	1	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	1	2	2	0	2	0	1	0	0	0	0	0
VAWA OFFENSES												
Domestic Violence	0	0	0	0	0	0	0	0	1	0	0	0
Dating Violence	1	0	0	0	0	0	0	0	0	0	0	0
Stalking	1	0	0	0	0	0	0	0	0	0	0	0
TOTAL	2	0	0	0	0	0	0	0	1	0	0	0
ALCOHOL, DRUGS, WEAPONS ARRESTS												
Liquor Law Violations	0	0	0	0	0	0	0	0	0	0	0	0
Drug Law Violations	0	0	0	0	0	0	0	0	0	0	0	0
Weapons Law Violations	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0
ALCOHOL, DRUGS, WEAPONS DISCIPLINARY ACTIONS/REFERRALS												
Liquor Law Violations	8	4	35	8	4	35	0	0	0	0	0	0
Drug Law Violations	1	5	0	1	5	0	0	0	0	0	0	0
Weapons Law Violations	0	1	0	0	1	0	0	0	0	0	0	0
TOTAL	9	10	35	9	10	35	0	0	0	0	0	0

There were no reported Hate Crimes for the years 2018, 2019 or 2020. Additionally, there were no unfounded crimes in 2018, 2019 or 2020.

LCC Crime Statistics: Clery Data

LINCOLN COUNTY CAMPUS	On-Campus			PUBLIC PROPERTY		
	2018	2019	2020	2018	2019	2020
CRIMINAL OFFENSES						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	1	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	1	0
Arson	0	0	0	0	0	0
TOTAL	0	0	0	0	2	0

VAWA OFFENSES						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

ALCOHOL, DRUGS, WEAPONS ARRESTS						
Liquor Law Violations	0	0	0	0	0	0
Drug Law Violations	0	0	0	0	0	0
Weapons Law Violations	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

ALCOHOL, DRUGS, WEAPONS DISCIPLINARY ACTIONS/REFERRALS						
Liquor Law Violations	0	0	0	0	0	0
Drug Law Violations	0	0	0	0	0	0
Weapons Law Violations	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

There were no reported Hate Crimes for the years 2018, 2019, or 2020. Additionally, there were no unfounded crimes in 2018, 2019 or 2020. Note: The Lincoln County Sherriff's Department was unable to provide crime statistics for the 2018 calendar year.

Definition of Clery Geography

The following Clery geography definitions apply to the Crime Statistics Report on pages 32-33.

On-campus is defined as “any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and property within the same reasonable geographic area of the institution that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).”

***On-campus Subset: On-campus Student Housing** is defined as “any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up campus.”

Non-campus building or property is defined as “any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.”

Public property is defined as “all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution’s educational purposes.”

Definition of Crime Categories Under Federal Law

The following criminal offenses are defined as outlined by the U.S. Department of Justice and FBI National Incident-Based Reporting System. Crime definitions are from the Uniform Crime Reporting Handbook. An incident meeting these definitions is considered a crime for the purpose of Clery Act reporting.

Murder & Non-negligent Manslaughter is defined by the willful (non-negligent) killing of one human being by another. Any death caused by injuries received in a fight, argument, quarrel, assault, or commission of a crime is classified as murder and non-negligent manslaughter.

Negligent Manslaughter is defined as the killing of another person through gross negligence. Deaths of persons due to their own negligence, accidental deaths not resulting from gross negligence, and traffic fatalities, are not included in the category of Negligent Manslaughter.

Sexual Assault is an offence that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Per the National Incident Based Reporting System User Manual from the FBI UCR Program, a sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.”

Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because his/her temporary or permanent mental incapacity.

Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

Robbery is the taking, or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault is an attack by one person upon another, in which the offender uses or displays a weapon in a threatening manner or the victim suffers severe injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Burglary is the unlawful entry into a building or other structure with the intent to commit a felony or a theft.

Motor-Vehicle Theft is the theft or attempted theft of a motor vehicle. All cases where automobiles, trucks, motorcycles, all-terrain vehicles, and mopeds are taken by persons not having lawful access or consent including joy riding, even if the vehicle is recovered.

Arson is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle, or aircraft, personal property of another, etc.

Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that persons acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating Violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and, where the existence of such a relationship shall be determined by the victim with consideration of the following factors: (1) the length of the relationship, (2) the type of relationship, (3) the frequency of the interaction between the persons involved in the relationship.

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Liquor-Law Violations are the violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor, maintaining unlawful drinking places, bootlegging, operating a still, furnishing liquor to a minor or intemperate person, underage possession, using a vehicle for illegal transportation of liquor, drinking on a train or public conveyance, and all attempts to commit any of the aforementioned offenses.

Drunkenness and driving under the influence are not included in this definition.

Drug-Law Violations are the violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine), marijuana, synthetic narcotics (Demerol, methadone), and dangerous non-narcotic drugs (barbiturates, Benzedrine).

Weapons Law Violations are the violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons, carrying deadly weapons, concealed or openly, furnished deadly weapons to minors, aliens possessing deadly weapons, all attempts to commit any of the aforementioned.

Hate Crime is defined as a criminal offense committed against a person or property that is motivated, in whole or in part, by the offender's bias. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, or disability. For Clery Act reporting purposes, hate crimes include any offense in the following list that is motivated by bias:

- Murder and Non-Negligent Manslaughter
- Sex Offense
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Destruction/Damage/Vandalism to Property
- Intimidation
- Larceny/Theft
- Simple Assault

Hate Crime Bias

- Race
- Gender
- Religion
- National Origin
- Sexual Orientation

- Gender Identity
- Ethnicity
- Disability

Definition of Crime Categories Under Montana Law

The terms Domestic Violence, Dating Violence, Sexual Assault, Stalking and Consent are defined in the applicable jurisdiction as outlined by Montana Code Annotated (MCA) 2019, Title 45. Crimes, Chapter 5. Offenses Against the Person, Part 5. Sexual Crimes.

1. **Domestic Violence:** The state of Montana does not have a definition of domestic violence.
2. **Dating Violence:** The state of Montana does not have a definition of dating violence.
3. **Sexual Assault:** The state of Montana defines sexual assault as follows: Montana Code Annotated (MCA) 40- 15-116. Definitions: As used in 40-15-115 through 40-15-121, the following definitions apply: (5) "Sexual assault" means sexual assault as defined in 45-5-502, sexual intercourse without consent as defined in 45-5-503, incest as defined in 45-5-507, or sexual abuse of children as defined in 45-5-625.

45-5-206. Partner or family member assault – penalty

- (1) A person commits the offense of partner or family member assault if the person:
 - (a) purposely or knowingly causes bodily injury to a partner or family member;
 - (b) negligently causes bodily injury to a partner or family member with a weapon; or
 - (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.
- (2) For the purposes of Title 40, chapter 15, **45-5-231** through **45-5-234**, **46-6-311**, and this section, the following definitions apply:
 - (a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.
 - (b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.
- (3)
 - (a)
 - (i) An offender convicted of partner or family member assault shall be fined an amount not less than \$100 or more than \$1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.
 - (ii) An offender convicted of a second offense under this section shall be fined not less than \$300 or more than \$1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.
 - (iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in **46-23-1005**.
 - (iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than \$500 and not more than \$50,000 and be imprisoned for a term not less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in

the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

- (v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing.
- (b) For the purpose of determining the number of convictions under this section, a conviction means:
 - (i) a conviction, as defined in **45-2-101**, under this section;
 - (ii) a conviction for domestic abuse under this section;
 - (iii) a conviction for a violation of a statute similar to this section in another state;
 - (iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under **45-5-202** or assault with a weapon under **45-5-213**;
 - (v) a conviction for strangulation of a partner or family member under **45-5-215**;
 - (vi) a conviction in another state for an offense related to domestic violence between partners or family members, as those terms are defined in this section, regardless of what the offense is named or whether it is misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under **45-5-202**, **45-5-213**, or this section; or
 - (vii) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated.
- (4) (a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in **45-5-231**, must be copied and sent to the offender intervention program, as defined in **45-5-231**, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.
- (b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in **45-5-231**. The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in **45-5-231**, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must meet the standards established pursuant to **44-7-210** and be:
 - (i) with a person licensed under Title 37, chapter 17, 22, or 23;
 - (ii) with a professional person as defined in **53-21-102**; or
 - (iii) in a specialized domestic violence intervention program.
- (c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no

available treatment program directed to the violent or controlling conduct of the offender.

- (5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in **46-18-242**, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.
- (6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court.
- (7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce **45-8-323** if a firearm was used in the assault.
- (8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail.

45-5-502. Sexual assault

- (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.
- (2)
 - (a) On a first conviction for sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.
 - (b) On a second conviction for sexual assault, the offender 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.
 - (c) On a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.
- (3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.
- (4) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission.
- (5)
 - (a) Subject to subsections (5)(b) through (5)(f), consent is ineffective under this section if the victim is:
 - (i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, conditional release, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;
 - (ii) less than 14 years old and the offender is 3 or more years older than the victim;
 - (iii) receiving services from a youth care facility, as defined in **52-2-602**, and the perpetrator:
 - (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and
 - (B) is an employee, contractor, or volunteer of the youth care facility;

- (iv) admitted to a mental health facility, as defined in **53-21-102**, is admitted to a community-based facility or a residential facility, as those terms are defined in **53-20-102**, or is receiving community-based services, as defined in **53-20-102**, and the perpetrator:
 - (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and
 - (B) is an employee, contractor, or volunteer of the facility or community-based service;
 - (v) a program participant, as defined in **52-2-802**, in a private alternative adolescent residential or outdoor program, pursuant to Title 52, chapter 2, part 8, and the perpetrator is a person associated with the program, as defined in **52-2-802**;
 - (vi) the victim is a client receiving psychotherapy services and the perpetrator:
 - (A) is providing or purporting to provide psychotherapy services to the victim; or
 - (B) is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim; or
 - (vii) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting.
- (b) Subsection (5)(a)(i) does not apply if one of the parties is on probation, conditional release, or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.
 - (c) Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.
 - (d) Subsection (5)(a)(v) does not apply if the individuals are married to each other and one of the individuals involved is a program participant and the other individual is a person associated with the program.
 - (e) Subsection (5)(a)(vi) does not apply if the individuals are married to each other and one of the individuals involved is a psychotherapy client and the other individual is a psychotherapist or an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the client.
 - (f) Subsection (5)(a)(vii) does not apply if the individuals are married to each other.

45-5-220. Stalking – exemption – penalty

- (1) A person commits the offense of stalking if the person purposely or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to:
 - (a) fear for the person's own safety or the safety of a third person; or
 - (b) suffer other substantial emotional distress.
- (2) For the purposes of this section, the following definitions apply:

- (a) "Course of conduct" means two or more acts, including but not limited to acts in which the offender directly or indirectly, by any action, method, communication, or physical or electronic devices or means, follows, monitors, observes, surveils, threatens, harasses, or intimidates a person or interferes with a person's property.
- (b) "Reasonable person" means a reasonable person under similar circumstances as the victim. This is an objective standard.
- (c) "Substantial emotional distress" means significant mental suffering or distress that may but does not necessarily require medical or other professional treatment or counseling.
- (3) This section does not apply to a constitutionally protected activity.
- (4) (a) Except as provided in subsection (4)(b), for the first offense, a person convicted of stalking shall be imprisoned in the county jail for a term not to exceed 1 year or fined an amount not to exceed \$1,000, or both.
- (b) For a second or subsequent offense within 20 years or for a first offense when the offender violated any order of protection, when the offender used force or a weapon or threatened to use force or a weapon, or when the victim is a minor and the offender is at least 5 years older than the victim, the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both.
- (c) A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense.
- (5) Upon presentation of credible evidence of violation of this section, an order may be granted, as set forth in Title 40, chapter 15, restraining a person from engaging in the activity described in subsection (1).
- (6) For the purpose of determining the number of convictions under this section, "conviction" means:
 - (a) a conviction, as defined in **45-2-101**, in this state;
 - (b) a conviction for a violation of a statute similar to this section in another state; or
 - (c) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or another state for a violation of a statute similar to this section, which forfeiture has not been vacated.
- (7) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person purposely or knowingly followed, harassed, threatened, or intimidated the stalked person.

45-5-501. Consent

The State of Montana defines consent, in relation to sexual activity, with reference to sexual assault, in the applicable jurisdiction Montana Code Annotated (MCA) 2019, (45-5-501), as follows:

- (1) (a) As used in **45-5-502**, **45-5-503**, and **45-5-508**, the term "consent" means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following:
 - (i) an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn;
 - (ii) a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and

- (iii) lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.
- (b) Subject to subsections (1)(c) through (1)(g), the victim is incapable of consent because the victim is:
 - (i) mentally disordered or incapacitated;
 - (ii) physically helpless;
 - (iii) overcome by deception, coercion, or surprise;
 - (iv) less than 16 years old;
 - (v) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, conditional release, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;
 - (vi) receiving services from a youth care facility, as defined in **52-2-602**, and the perpetrator:
 - (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and
 - (B) is an employee, contractor, or volunteer of the youth care facility;
 - (vii) admitted to a mental health facility, as defined in **53-21-102**, is admitted to a community-based facility or a residential facility, as those terms are defined in **53-20-102**, or is receiving community-based services, as defined in **53-20-102**, and the perpetrator:
 - (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and
 - (B) is an employee, contractor, or volunteer of the facility or community-based service;
 - (viii) a program participant, as defined in **52-2-802**, in a private alternative adolescent residential or outdoor program, pursuant to Title 52, chapter 2, part 8, and the perpetrator is a person associated with the program, as defined in **52-2-802**;
 - (ix) the victim is a client receiving psychotherapy services and the perpetrator:
 - (A) is providing or purporting to provide psychotherapy services to the victim; or
 - (B) is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim;
 - (x) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting;
 - (xi) a witness in a criminal investigation or a person who is under investigation in a criminal matter and the perpetrator is a law enforcement officer who is involved with the case in which the victim is a witness or is being investigated; or
 - (xii) a parent or guardian involved in a child abuse or neglect proceeding under Title 41, chapter 3, and the perpetrator is:
 - (A) employed by the department of public health and human services for the purposes of carrying out the department's duties under Title 41, chapter 3; and

- (B) directly involved in the parent or guardian's case or involved in the supervision of the case.
- (c) Subsection (1)(b)(v) does not apply if the individuals are married to each other and one of the individuals involved is on probation, conditional release, or parole and the other individual is a probation or parole officer of a supervising authority.
- (d) Subsections (1)(b)(vi) and (1)(b)(vii) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.
- (e) Subsection (1)(b)(viii) does not apply if the individuals are married to each other and one of the individuals involved is a program participant and the other individual is a person associated with the program.
- (f) Subsection (1)(b)(ix) does not apply if the individuals are married to each other and one of the individuals involved is a psychotherapy client and the other individual is a psychotherapist or an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the client.
- (g) Subsection (1)(b)(x) does not apply if the individuals are married to each other.
- (2) As used in **45-5-508**, the term "force" means:
 - (a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or
 - (b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.
- (3) As used in **45-5-502** and this section, the following definitions apply:
 - (a) "Conditional release", in the case of a youth offender, has the meaning provided in **41-5-103**.
 - (b) "Parole", in the case of an adult offender, has the meaning provided in **46-1-202**.
 - (c) "Probation" means:
 - (i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and
 - (ii) in the case of a youth offender, supervision of the youth by a youth court pursuant to Title 41, chapter 5.
 - (d) (i) "Psychotherapy services" means treatment, diagnosis, or counseling in a professional relationship to assist individuals or groups to alleviate behavioral or mental health disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning regardless of whether the individual providing the psychotherapy services is licensed or unlicensed.
 - (ii) The term does not include a partner surrogate working with a social worker, a professional counselor, or a licensed clinical professional counselor as those professionals are licensed in Title 37, chapter 22 or 23.
 - (e) "Supervising authority" includes a court, including a youth court, a county, or the department of corrections.

Montana's Underage Consumption of Alcohol Law

45-5-624. Possession of or unlawful attempt to purchase intoxicating substance

- (1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. A person may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages. A person does not commit the offense if the person consumes or gains possession of an alcoholic beverage because it was lawfully supplied to the person under **16-6-305** or when in the course of employment it is necessary to possess alcoholic beverages.
- (2) (a) In addition to any disposition by the youth court under **41-5-1512**, a person under 18 years of age who is convicted under this section:
 - (i) for a first offense, shall be fined an amount not less than \$100 and not to exceed \$300 and:
 - (A) shall be ordered to perform 20 hours of community service;
 - (B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available; and
 - (C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b);
 - (ii) for a second offense, shall be fined an amount not less than \$200 and not to exceed \$600 and:
 - (A) shall be ordered to perform 40 hours of community service;
 - (B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available;
 - (C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and
 - (D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7);
 - (iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$900, shall be ordered to perform 60 hours of community service, shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available, and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7). If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b).
- (b) If the convicted person fails to complete the community-based substance abuse information course and has a driver's license, the court shall order the license

suspended for 3 months for a first offense, 9 months for a second offense, and 12 months for a third or subsequent offense.

- (c) The court shall retain jurisdiction for up to 1 year to order suspension of a license under subsection (2)(b).
- (3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance:
- (a) for a first offense:
 - (i) shall be fined an amount not less than \$100 or more than \$300;
 - (ii) shall be ordered to perform 20 hours of community service; and
 - (iii) shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8);
 - (b) for a second offense:
 - (i) shall be fined an amount not less than \$200 or more than \$600;
 - (ii) shall be ordered to perform 40 hours of community service; and
 - (iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (8), which may, in the court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both;
 - (c) for a third or subsequent offense:
 - (i) shall be fined an amount not less than \$300 or more than \$900;
 - (ii) shall be ordered to perform 60 hours of community service;
 - (iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (8), which may, in the sentencing court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; and
 - (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months.
- (4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.
- (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need of intervention as defined in **41-5-103**. The youth court may enter its judgment under **41-5-1512**.
- (6) A person commits the offense of interference with a sentence or court order if the person purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both.
- (7) (a) A person convicted of a second or subsequent offense of possession of an intoxicating substance shall be ordered to complete a chemical dependency assessment.
- (b) The assessment must be completed at a treatment program that meets the requirements of subsection (8) and must be conducted by a licensed addiction counselor. The person may attend a program of the person's choice as long as a licensed

addiction counselor provides the services. If able, the person shall pay the cost of the assessment and any resulting treatment.

- (c) The assessment must describe the person's level of abuse or dependency, if any, and contain a recommendation as to the appropriate level of treatment, if treatment is indicated. A person who disagrees with the initial assessment may, at the person's expense, obtain a second assessment provided by a licensed addiction counselor or program that meets the requirements of subsection (8).
 - (d) The treatment provided must be at a level appropriate to the person's alcohol or drug problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon the determination, the court shall order the appropriate level of treatment, if any. If more than one counselor makes a determination, the court shall order an appropriate level of treatment based on the determination of one of the counselors.
 - (e) Each counselor providing treatment shall, at the commencement of the course of treatment, notify the court that the person has been enrolled in a chemical dependency treatment program. If the person fails to attend the treatment program, the counselor shall notify the court of the failure.
- (8) (a) A community-based substance abuse information course required under subsection (2)(a)(i)(B), (2)(a)(ii)(B), (2)(a)(iii), or (3)(a)(iii) must be:
- (i) approved by the department of public health and human services under **53-24-208** or by a court or provided under a contract with the department of corrections; or
 - (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.
- (b) An alcohol information course required under subsection (3)(b)(iii) or (3)(c)(iii) must be provided at an alcohol treatment program:
- (i) approved by the department of public health and human services under **53-24-208** or by a court or provided under a contract with the department of corrections; or
 - (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.
- (c) A chemical dependency assessment required under subsection (7) must be completed at a treatment program:
- (i) approved by the department of public health and human services under **53-24-208** or by a court or provided under a contract with the department of corrections; or
 - (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.
- (9) Information provided or statements made by a person under 21 years of age to a health care provider or law enforcement personnel regarding an alleged offense against that person under Title 45, chapter 5, part 5, may not be used in a prosecution of that person under this section.

This subsection's protection also extends to a person who helps the victim obtain medical or other assistance or report the offense to law enforcement personnel.

- (10) (a) A person under 21 years of age may not be charged or prosecuted under subsection (1) if:
 - (i) the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment;
 - (ii) the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or
 - (iii) the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.
- (b) For the purposes of this subsection (10), the following definitions apply:
 - (i) "Health care facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.
 - (ii) "Medical treatment" means medical treatment provided by a health care facility or an emergency medical service.

Montana's Medical Amnesty Law

45-5-624. Possession of or unlawful attempt to purchase intoxicating substance

- (10) (a) A person under 21 years of age may not be charged or prosecuted under subsection (1) if:
 - (i) the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment;
 - (ii) the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or
 - (iii) the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.
- (b) For the purposes of this subsection (10), the following definitions apply:
 - (i) "Health care facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.
 - (ii) "Medical treatment" means medical treatment provided by a health care facility or an emergency medical service.

Montana's Carrying False Identification Law

61-5-302. Unlawful use of license or identification card

It is a misdemeanor for a person to:

- (1) display or cause or permit to be displayed or have in the person's possession a canceled, revoked, suspended, fictitious, or altered driver's license, identification card, or tribal identification card;
- (2) lend the person's driver's license, identification card, or tribal identification card to any other person or knowingly permit its use by another;
- (3) display or represent as one's own any driver's license, identification card, or tribal identification card not issued to the person;
- (4) fail or refuse to surrender to the department upon its lawful demand a driver's license or identification card that has been suspended, revoked, or canceled;
- (5) use a false or fictitious name in an application for a driver's license or identification card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in an application; or
- (6) permit any unlawful use of a driver's license, identification card, or tribal identification card issued to the person.

Fines typically range between \$280 and \$500.

Montana's Public Drunkenness Law

61-8-508. Intoxicated pedestrian

Except in an authorized crosswalk, a person who is under the influence of alcohol or any drug may walk or stand in the public right-of-way, as defined in **60-1-103**, but not on a roadway or a shoulder as is otherwise permissible under **61-8-506(2)**.

Fines typically range between \$100 and \$500.

Montana's Driving Under the Influence of Substances Law

61-8-401. Driving under influence of alcohol or drugs – definitions

- (1) It is unlawful and punishable, as provided in **61-8-442**, **61-8-714**, and **61-8-731** through **61-8-734**, for a person who is under the influence of:
 - (a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;
 - (b) a dangerous drug to drive or be in actual physical control of a vehicle within this state;
 - (c) any other drug to drive or be in actual physical control of a vehicle within this state; or
 - (d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this state.
- (2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).
- (3) (a) "Under the influence" means that as a result of taking into the body alcohol, drugs, or

any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

- (b) Subject to **61-8-440**, as used in this part, "vehicle" has the meaning provided in **61-1-101**, except that the term does not include a bicycle.
- (4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood or breath drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:
 - (a) If there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol.
 - (b) If there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person.
 - (c) If there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.
- (5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.
- (6) Each municipality in this state is given authority to enact **61-8-406, 61-8-408, 61-8-410, 61-8-411, 61-8-465, 61-8-714, 61-8-722, 61-8-731** through **61-8-734**, and subsections (1) through (5) of this section, with the word "state" in **61-8-406, 61-8-411, 61-8-465**, and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties provided in the ordinance.
- (7) Absolute liability as provided in **45-2-104** is imposed for a violation of this section.

Fines typically range between \$600 and \$5,000.

Offense Level	Penalty
1 st Offense	<p>a) Shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000.</p> <p>b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.</p>

c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

2nd Offense

a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-401 shall be punished by a fine of not less than \$1,200 or more than \$2,000 and by imprisonment for not less than 7 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by a fine of not less than \$2,400 or more than \$4,000 and by imprisonment for not less than 14 days or more than 1 year.

b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

3rd Offense

a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8-401 shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for a term of not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000.

b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

4th Offense--Felony

4. If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration, driving under the influence of delta-9-tetrahydrocannabinol, or aggravated driving under the influence.

5. If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall be punished as provided in 61-8-465.

Montana's law on selling or furnishing alcohol to minors

16-6-305. Age limit for sale or provision of alcoholic beverages – liability of provider

- (1)
 - (a) Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age.
 - (b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.
 - (c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:
 - (i) a blood, breath, or urine alcohol concentration in excess of 0.05; or
 - (ii) substantial or visible mental or physical impairment.
- (2) A person is guilty of a misdemeanor who:
 - (a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the person;
 - (b) permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for the person; or
 - (c) holds out the person to be 21 years of age or older to the owner of the establishment or to the owner's employee.
- (3) It is unlawful for any person to fraudulently misrepresent the person's age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card, including a tribal identification card.
- (4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the violation.

Montana's open container laws

61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway

- (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.
- (2) This section does not apply to an open alcoholic beverage container:
 - (a) in a locked glove compartment or storage compartment;
 - (b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
 - (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;
 - (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or
 - (e) in the immediate possession of a passenger:
 - (i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or

- (ii) in the living quarters of a camper, travel trailer, or motor home.
- (3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.
- (b) A violation of this section is not a criminal offense within the meaning of **3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, and 61-8-711** and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in **3-1-317, 3-1-318, and 46-18-236** may not be imposed for a violation of this section.

Kalispell Municipal Code Chapter 3 Alcoholic Beverages, Article 3 Offenses and Penalties

3-18 Consumption in Street, Alley, or Public Place Prohibited; Exceptions

A. No person shall sell, serve, dispense, consume or possess an open container of any alcoholic beverage in or upon any building or other property owned or occupied by the City or upon any street or sidewalk unless such action is otherwise authorized as set forth in this section.

3-16 Possession by Persons Under Twenty-One

It is unlawful for any person who has not reached the age of twenty-one (21) years to have in his or her possession an alcoholic beverage, provided, however, that a person does not commit this offense when in the course of his or her employment it is necessary to possess alcoholic beverages. (Ord. 1355, 6-5-2000)

3-19 Penalties

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished as provided in Section 1-9 of this Code. (Ord. 1355, 6-5-2000)

Libby Municipal Code Chapter 9.56 Public Consumption of Liquor and Intoxication

9.56.010 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

"Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half percent of alcohol by volume.

"Public display or exhibition of beer, wine, or liquor" means the carrying and exhibiting of open cans or bottles of beer or the carrying and exhibition of glasses or other types of containers for beer, wine or liquor, even though empty, on or within any place as defined herein. This definition does not include carrying or transporting beer, wine or liquor from retail or wholesale liquor or beer establishments in sacks, cases, boxes, cartons or other similar containers if the seal for the alcoholic beverage container is unbroken: nor does this definition include those situations wherein the alcoholic beverage container is being transported or carried to a recycling center or garbage disposal site; nor does this definition include transportation of alcoholic containers in a compartment of a vehicle that is outside the

passenger area of the vehicle and which area is not accessible to the driver and passenger of the vehicle from the passenger area while the vehicle is in operation.

"Public places" means all sidewalks, streets, avenues, alleys, publicly owned parking lots and privately owned parking lots open to the public for parking in the city. This definition does not include the premises licensed for the sale of liquor or beer at retail by the Liquor Division of the Montana Department of Revenue. For purposes of this definition, the term "premises" shall have the same meaning attributed to that term by the Department of Revenue pursuant to its administrative regulations, which term is defined as follows: the building or any specific portion of any building in which the liquor and/or beer business is conducted and those areas in which the licensee operates a sidewalk cafe, open air restaurant or tavern outside of and adjacent to the licensed building and to which patrons are permitted free access from the building. (Ord. No. 1850, § 1, 7-21-2014)

9.56.020 Unlawful within city limits

Public drinking and public display and exhibition of alcoholic beverages as defined in this chapter are prohibited, and it is unlawful for any person to engage in public drinking, public display or exhibition of alcoholic beverages within the city limits. A violation of any provision of this chapter is a municipal infraction punishable as set forth in Section 1.28.010. (Ord. No. 1850, § 2, 7-21-2014; Ord. No. 1881, § 1, 3-2-2016)

Possession of Dangerous Drugs (PODD)

45-9-102. Criminal possession of dangerous drugs

- (1) Except as provided in Title 16, chapter 12, **50-32-609**, or Title 50, chapter 46, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in **50-32-101**, [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12.
- (2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.
- (3) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.
- (4) Ultimate users and practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice are exempt from this section.

16-12-106. Personal Use and Cultivation of Marijuana—Penalties

- (1) Subject to the limitations in **16-12-108**, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older:
 - (a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of marijuana, except that not more than 8 grams may be in a concentrated form;
 - (b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older, 1 ounce or less of marijuana, except that not more than 8 grams may be in a concentrated form;

- (c) in or on the grounds of a private residence, possessing, planting, or cultivating up to four mature marijuana plants and four seedlings and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:
 - (i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;
 - (ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;
 - (iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and
 - (iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana-infused products for personal use may be shared with, rented, or leased to an adult-use provider or an adult-use marijuana-infused products provider;
- (d) assisting another person who is at least 21 years of age in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and
- (e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.
- (2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding \$250 and forfeiture of the marijuana.
- (3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding \$250 and forfeiture of the marijuana.
- (4) A person who smokes marijuana in a public place, other than in an area licensed for that activity by the department, is subject to a civil fine not exceeding \$50.
- (5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, ingestion, inhalation, transportation, delivery without consideration, or distribution without consideration of 1 ounce or less of marijuana is punishable by forfeiture of the marijuana and the underage person's choice between:
 - (a) a civil fine not to exceed \$100; or
 - (b) up to 4 hours of drug education or counseling in lieu of the fine.
- (6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and the underage person's choice between:
 - (a) a civil fine not to exceed \$100; or
 - (b) up to 4 hours of drug education or counseling in lieu of the fine.
- (7) Unless otherwise permitted under the provisions of Title 50, chapter 46, part 3, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:
 - (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to 4 hours of community service in lieu of the fine;

- (b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing up to 6 hours of community service in lieu of the fine;
 - (c) for a third or subsequent violation, the person's choice between a civil fine not \ exceeding \$500 or completing up to 8 hours of community service in lieu of the fine; and
 - (d) for a person under 21 years of age, the person's choice between a civil fine not to exceed \$200 or attending up to 8 hours of drug education or counseling in lieu of the fine.
- (8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.
 - (9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter.
 - (10) A person currently under parole, probation, or other state supervision or released awaiting trial or other hearing may not be punished or otherwise penalized solely for conduct that is permitted by this chapter.
 - (11) A holder of a professional or occupational license may not be subjected to professional discipline for providing advice or services arising out of or related to conduct that is permitted by this chapter solely on the basis that marijuana is prohibited by federal law.
 - (12) It is the public policy of the state of Montana that contracts related to the operation of licenses be enforceable.

16-12-108. Limitations of Act

- (1) This chapter does not permit:
 - (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana;
 - (b) consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
 - (c) smoking marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
 - (d) delivery or distribution of marijuana, with or without consideration, to a person under 21 years of age;
 - (e) purchase, consumption, or use of marijuana by a person under 21 years of age;
 - (f) possession or transport of marijuana by a person under 21 years of age unless the underage person is at least 18 years of age and is an employee of an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary and engaged in work activities;
 - (g) possession or consumption of marijuana or possession of marijuana paraphernalia:
 - (i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in **20-5-402**;
 - (ii) in a school bus;
 - (iii) in a health care facility as defined in **50-5-101**; or
 - (iv) on the grounds of any correctional facility;
 - (h) smoking marijuana in a location where smoking tobacco is prohibited;
 - (i) consumption of marijuana in a public place, except as allowed by the department;
 - (j) conduct that endangers others;

- (k) undertaking any task while under the influence of marijuana if doing so would constitute negligence or professional malpractice; or
 - (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.
- (2) Nothing in this chapter may be construed to:
- (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;
 - (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana;
 - (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana while working.
- (3) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.
- (4) Nothing in this chapter limits the rights, privileges, immunities, or defenses provided under Title 50, chapter 46, part 3.
- (5) An adult-use provider or adult-use marijuana-infused products provider who violates **15-64-103** or **15-64-104** is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance with **15-64-103** or **15-64-104**.

Drug Type	Level of Offense	Penalty
Anabolic steroid as listed in 50-32-226	1 st Offense	Guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both.
Opiate , as defined in 50-32-101-Felony	1 st Offense	Shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.
Methamphetamine	2 nd or Subsequent Offense	Shall be punished by: <ul style="list-style-type: none"> i. imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or ii. commitment to the department of corrections for placement in an appropriate correctional facility or

program for a term of not less than 3 years or more than 5 years. If the person successfully completes a residential methamphetamine treatment program operated or approved by the department of corrections during the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not to exceed \$50,000.

A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

Possession of Dangerous Paraphilia (PODP)

45-10-103. Criminal possession of drug paraphernalia

Except as provided in Title 16, chapter 12, **50-32-609**, or Title 50, chapter 46, it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

Fire Safety Report for Calendar Year 2020

The U.S. Department of Education requires all colleges and universities that maintain on-campus student housing and receive U.S. Department of Education funding to publish an annual fire safety report, maintain a fire log, and report fire statistics to the Secretary of Education.

For each housing facility on-campus, the following must be reported:

- The number of fires and the cause of each fire.
- The number of deaths related to the fire.
- The number of injuries related to the fire that resulted in treatment at a medical facility. The value of property damage related to the fire.

The Director of Facilities Operations maintains the fire log, which is available to view in BH 127. The fire log includes the date a fire was reported, the nature of the fire, the date and time of the fire, and the general location of the fire. The log is updated within two business days of receiving a report of a fire.

In terms of fire safety reporting, a **“fire”** is defined as any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner. Fire safety is important in protecting the campus community from injuries, death, business interruption, and property damage resulting from fires.

On-campus student housing is defined as a student housing facility that is owned or controlled by the institution or is located on property that is owned or controlled by the institution and is within the reasonably contiguous geographic area that makes up the campus.

In Case of a Fire

If you discover a fire, call 911 and pull a nearby fire alarm.

When it is safe to do so, have someone call the Campus Resource Officer at 406.407.1558 (weekdays) or the Campus Incident Line, staffed by the Director of Facilities Operations, at 406.270.4555 (evenings and weekends).

If the fire is smaller than a trash can, and it is safe to do so, you may attempt to extinguish the fire with a fire extinguisher.

If the fire is larger than a trash can, evacuate the building. Evacuation maps are posted throughout campus.

Remember:

- If you are away from your office, do not attempt to return for any items.
- If your clothes catch on fire, you should STOP, DROP and ROLL until the fire is extinguished.
- Check closed doors for heat before you open them by using the back of your hand.

- If the door is cool, open it slowly to ensure the fire and/or smoke is not blocking your escape route. If it is clear, leave immediately and close the door behind you. Be prepared to crawl as smoke and heat rises.

For residents of Founders Hall:

- When the general alarm for Founders Hall sounds, you must evacuate the building immediately via the closest emergency exit. Be sure you close and lock your room as you leave. The emergency exit routes are clearly marked. Residents must proceed in an orderly fashion by walking quickly to the emergency egress routes and out of the building.
- Elevators cannot be used as emergency exit routes.
- Once outside the building, you must move to a site at least 25 feet from the building. This will allow room for emergency vehicles and personnel to work and protect your safety. During inclement weather, students will be moved inside to other buildings during the emergency situation. Do not re-enter the building until instructed to do so by a Residence Life staff member or the on-scene emergency personnel.

Fire Reporting and College Response to Arson

Arson is the act of maliciously, voluntarily, and willfully setting fire to the building, buildings, or other property within the building. Arson is a criminal offense and will be treated as such. Any acts of or attempted acts of arson will result in disciplinary sanctions, up to and including suspension or expulsion for the college as well as criminal charges.

If you suspect an active fire or witness evidence of a fire (e.g. singed paper on a bulletin board, fire in a trash can), call 911. When it is safe to do so, call the Campus Resource Officer at 406.407.1558 (weekdays) or the Campus Incident Line, staffed by the Director of Facilities Operations, at 406.270.4555 (evenings and weekends). If you're unsure if the fire department has been contacted, call 911.

FVCC is required to annually disclose statistical data on all fires that occur in on-campus housing facilities. To report a non-emergency fire which has already been extinguished in Founders Hall, call the Coordinator of Residence Life at 406.756.4856, Director of Facilities Operations at 406.471.8700, or Campus Resource Officer at 406.407.1558.

On-Campus Student Housing Fire Statistics for Calendar Years 2018, 2019, 2020

Statistics and Related Information Regarding Fires in Residential Facilities for 2020						
	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire
Residential Facility						
Founders Hall, 2205 Hwy 93N	1	1	hot item placed in trash can	0	0	\$117,124.61
Statistics and Related Information Regarding Fires in Residential Facilities for 2019						
	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire
Residential Facility						
Founders Hall, 2205 Hwy 93N	0	0	N/A	N/A	N/A	N/A
Statistics and Related Information Regarding Fires in Residential Facilities for 2018						
	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire
Residential Facility						
Founders Hall, 2205 Hwy 93N	0	0	N/A	N/A	N/A	N/A

Fire Safety Rules

The use, possession, or storage of the following items are prohibited in student housing:

- Candles, incense
- Hotplates or other open-element appliances
- Pressure cookers
- Extension cords, multiple receptacle outlets, halogen lamps, light bulbs greater than 100W
- Fireworks, explosive materials, illegal drugs and paraphernalia, alcohol, tobacco products including e-cigarettes, weapons
- Live Christmas trees
- Hover boards, Segway's, or similar devices

Candles and incense have been found to be a severe fire hazard, and their use is prohibited in the residence halls. Wickless candles are an acceptable alternative and provide fragrance without the flame.

Space heaters, portable electrical appliances (e.g. hot plates, toaster ovens), and barbecues are also prohibited due to significant fire hazards both items present.

FVCC is a smoke free, tobacco free, and e-cigarette free campus, which includes Founders Hall.

Prohibited Acts

The following acts are prohibited in Founders Hall and will result in disciplinary action and possible criminal charges:

1. Misuse of any fire equipment, including extinguishers, and smoke detectors, emergency lights, and alarms;
2. Starting fires or setting off false alarms; and
3. Failing to evacuate and/or hindering in the evacuation of others.

Fire Extinguishers

Fire extinguishers are located throughout campus and are professionally tested annually in September. Building Coordinators, have been trained, and are tasked with visually inspecting fire extinguishers on a monthly basis. In Founders Hall, each apartment is equipped with a small fire extinguisher in the kitchenette.

Fire extinguisher safety and training conducted in 2020 for residence life and custodial staff, members of the Trades & Industrial Arts division, and other interested employees on August 13. Building coordinators visually inspect each fire extinguisher in their building on a monthly basis.

Fire Sprinkler System

A city-line-pressure heat-activated water-based fire suppression system is installed in all campus buildings including Founders Hall. The system is professionally tested and certified annually. In 2020, the fire suppression system in Founders Hall was tested on in January.

Fire Alarm System

The fire alarm system can be activated either at manual pull stations, at a master control panel, or through activation of the fire sprinkler system. The alarm system is also tested and certified in January of each year. The alarms consist of loud horns and flashing strobe lights to assist all persons in the buildings to know that an alarm is being sounded. Scheduled fire alarm tests were conducted in each building in January 2020. The Ansul kitchen hood fire suppression system located in the Eagle's Nest and the Culinary Arts kitchen are tested twice a year in January and June.

Fire Drills

The Higher Education Act (HEA) defines a fire drill as “a supervised practice of mandatory evacuation of a building for fire.”

Typically, a minimum of four unannounced fire drills are held in Founders Hall each year. Each fire drill is held at different times of the day with one drill held either before sunrise or after sunset and one drill held within 10 days of the school year. However, due to the pandemic, only one unannounced fire drill was held in 2020 as noted below.

Date	Time	Location of Fire Drill
February 20, 2020	11:00 am	Founders Hall

Additionally, Residence Life Staff are trained annually on the Founders Hall fire suppression system and how to check and monitor fire extinguishers and emergency exit signs.

Plans for Future Improvements in Fire Safety

FVCC is committed to providing its residents a fire-safe living and learning environment and will look at ways to further increase safety awareness.