I. Civil Statute Protecting Dependent Adults or Elders from Neglect or Abuse: None

A. Older persons:

"Older person" means a person who is at least 60 years of age. For purposes of prosecution under 52-3-825(2) or (3), the person 60 years of age or older must be unable to provide personal protection from abuse, sexual abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by advanced age.  Mont. Code Anno. § 52-3-803

B. Persons/Entities Excluded From Statute: None

C. Reporting Requirement for Litigation to State: None

D. Preclusion of Arbitration:

A written agreement to submit any existing or future controversy to arbitration is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of the contract.  Mont. Code Anno. § 27-5-114

E. Relationship to Medical Malpractice actions:

No civil elder abuse statute exists in Montana, and does not affect medical malpractice actions.

F. Criminal Provision:

A person who purposely or knowingly abuses, sexually abuses, or neglects an older person or a person with a developmental disability is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed $10,000, or both.  Mont. Code Anno.  § 52-3-825(2)(a)

(1) Interplay with State Civil Statute: No Civil Statute.

G. Statute of Limitations:

Three Years – Mont. Code Anno. § 27-2-204 et seq.


I. Can Regulations Establish Standard of Care: No
II. **DAMAGES**

A. **Damages Available**

1. Actual Damages
2. Special Damages
3. Punitive Damages
4. Injunctive Relief
5. Costs of Suit

B. **Does Pain and Suffering of Decedent/Resident Survive Death:**

**Yes. Mont. Code Anno. §72-3-604.** The damages that may be recovered in a survival action include..... reasonable compensation for **pain and suffering**, and other special damages. *Swanson*, 197 Mont. at 515, 646 P.2d at 1169 (citations omitted). The source of the damages recoverable in the survival action are personal to the decedent and do not include damages suffered by the decedent's spouse, children or other heirs. *Id.*

C. **Attorney’s Fees Available:** No.

1. **If available, are the attorney’s fees limited?**

III. **LEGISLATION AFFECTING STATUTE**

A. **Pending:** None

B. **Anticipated:** None