

HOUSE BILL NO. 211

INTRODUCED BY BRADLEY, LEE, FAGG, MESSMORE, J. RICE, TOOLE

IN THE HOUSE

JANUARY 16, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

JANUARY 17, 1991           FIRST READING.

JANUARY 24, 1991           COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

JANUARY 25, 1991           PRINTING REPORT.

JANUARY 26, 1991           SECOND READING, DO PASS.

JANUARY 28, 1991           ENGROSSING REPORT.

JANUARY 30, 1991           THIRD READING, PASSED.  
AYES, 100; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 31, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

FIRST READING.

MARCH 12, 1991           COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 13, 1991           SECOND READING, CONCURRED IN.

MARCH 14, 1991           THIRD READING, CONCURRED IN.  
AYES, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 15, 1991           RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 211  
 2 INTRODUCED BY Bradley Lee Jagg Messmore Rice  
 3 107

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE PENALTY FOR  
 5 SEXUAL INTERCOURSE WITHOUT CONSENT UNIFORM FOR BOTH  
 6 HETEROSEXUAL AND HOMOSEXUAL RAPE; AND AMENDING SECTIONS  
 7 45-5-501, 45-5-503, AND 45-5-505, MCA."

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

10 **Section 1.** Section 45-5-503, MCA, is amended to read:

11 "45-5-503. Sexual intercourse without consent. (1) A  
 12 person who knowingly has sexual intercourse without consent  
 13 with ~~a--person--of--the--opposite--sex~~ another commits the  
 14 offense of sexual intercourse without consent. A person may  
 15 not be convicted under this section based on the age of his  
 16 spouse as provided in 45-5-501(2)(c).

17 (2) A person convicted of sexual intercourse without  
 18 consent shall be imprisoned in the state prison for a term  
 19 of not less than 2 years or more than 20 years and may be  
 20 fined not more than \$50,000, except as provided in  
 21 46-18-222.

22 (3) (a) If the victim is less than 16 years old and the  
 23 offender is 3 or more years older than the victim or if the  
 24 offender inflicts bodily injury upon anyone in the course of  
 25 committing sexual intercourse without consent, he shall be

1 imprisoned in the state prison for any term of not less than  
 2 2 years or more than 40 years and may be fined not more than  
 3 \$50,000, except as provided in 46-18-222.

4 (b) An act "in the course of committing sexual  
 5 intercourse without consent" shall include an attempt to  
 6 commit the offense or flight after the attempt or  
 7 commission.

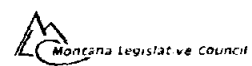
8 (4) In addition to any sentence imposed under  
 9 subsection (2) or (3), after determining the financial  
 10 resources and future ability of the offender to pay  
 11 restitution as required by 46-18-242, the court shall  
 12 require the offender, if able, to pay the victim's  
 13 reasonable costs of counseling that result from the offense.  
 14 The amount, method, and time of payment must be determined  
 15 in the same manner as provided for in 46-18-244."

16 **Section 2.** Section 45-5-505, MCA, is amended to read:

17 "45-5-505. Deviate sexual conduct. (1) A person who  
 18 knowingly engages in deviate sexual relations or who causes  
 19 another to engage in deviate sexual relations commits the  
 20 offense of deviate sexual conduct.

21 (2) A person convicted of the offense of deviate sexual  
 22 conduct shall be imprisoned in the state prison for any term  
 23 not to exceed 10 years or be fined an amount not to exceed  
 24 \$50,000, or both.

25 ~~(3)--A--person--convicted--of--deviate--sexual--conduct~~



LC 0577/01

1 ~~without--consent--shall--be--imprisoned--in--the--state--prison--for~~  
2 ~~any--term--not--to--exceed--20--years--or--be--fined--an--amount--not--to~~  
3 ~~exceed--\$50,000,--or--both."~~

4 **Section 3.** Section 45-5-501, MCA, is amended to read:

5 "45-5-501. Definition. As used in 45-5-503 and  
6 45-5-505, the term "without consent" means:

7 (1) the victim is compelled to submit by force or by  
8 threat of imminent death, bodily injury, or kidnapping to be  
9 inflicted on anyone; or

10 (2) the victim is incapable of consent because he is:

11 (a) mentally defective or incapacitated;

12 (b) physically helpless; or

13 (c) less than 16 years old."

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0211, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill for an act entitled: "Making the penalty for sexual intercourse without consent uniform for both heterosexual and homosexual rape."

ASSUMPTIONS:

1. This bill deletes reference to the sex of a victim of sexual intercourse without consent by substituting "another" for "person of the opposite sex."
2. Under current law, homosexual rape offenders are charged under the deviate sexual conduct statute.

FISCAL IMPACT:

None

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      3-8-91      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
DOROTHY BRADLEY, PRIMARY SPONSOR      3/9/91      DATE

Fiscal Note for HB0211, as introduced

**HB 211**

APPROVED BY COMMITTEE  
ON JUDICIARY

1 House BILL NO. 211  
2 INTRODUCED BY Bradley Lee Jantz Messmore J. Rice  
3 for

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE PENALTY FOR  
5 SEXUAL INTERCOURSE WITHOUT CONSENT UNIFORM FOR BOTH  
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4 (b) An act "in the course of committing sexual  
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7 commission.

8 (4) In addition to any sentence imposed under  
9 subsection (2) or (3), after determining the financial  
10 resources and future ability of the offender to pay  
11 restitution as required by 46-18-242, the court shall  
12 require the offender, if able, to pay the victim's  
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20 offense of deviate sexual conduct.

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22 conduct shall be imprisoned in the state prison for any term  
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LC 0577/01

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LC 0577/01

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**REFERENCE BILL**

HB 211

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