

1 Senate BILL NO. 283
 2 INTRODUCED BY Heidel Boylan Wardens Manly
 3 Rose Rosell Conner Blaylock Jerguson
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ^{Michigan}
 5 PROVISIONS OF MONTANA'S SEXUAL CRIMES STATUTES PERTAINING TO ^{P. Smith}
 6 SEXUAL INTERCOURSE WITHOUT CONSENT; AMENDING SECTIONS ^{Nelson}
 7 94-5-501 AND 94-5-503, R.C.M. 1947."

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

10 Section 1. Section 94-5-501, R.C.M. 1947, is amended
11 to read as follows:

12 "94-5-501. Definitions. (1) In this part, unless a
13 different meaning plainly is required, the definitions given
14 in chapter 2, 94-2-101 apply.

15 (2) "Spouse" means one who is legally married to
16 another and living with that person. Persons legally
17 separated and living apart pursuant to a decree of legal
18 separation are not married for purposes of this part."

19 Section 2. Section 94-5-503, R.C.M. 1947, is amended
20 to read as follows:

21 "94-5-503. Sexual intercourse without consent. (1) A
22 male person who knowingly has sexual intercourse without
23 consent with a female person not his spouse commits the
24 offense of sexual intercourse without consent.

25 (2) A person convicted of sexual intercourse without

1 consent shall be imprisoned in the state prison for any term
2 not to exceed twenty (20) years.

3 (3) If the victim is less than sixteen (16) years old
4 and the offender is three (3) or more years older than the
5 victim, or if the offender inflicts bodily injury upon
6 anyone in the course of committing sexual intercourse
7 without consent, he shall be imprisoned in the state prison
8 for any term not to exceed forty (40) years.

9 (4) An act "in the course of committing sexual
10 intercourse without consent" shall include an attempt to
11 commit the offense or flight after the attempt or
12 commission.

13 (5) The issue of consent may be proved by the
14 testimony of the victim, without corroboration. It may also
15 be proved by other evidence including actual words or
16 conduct at the time of the act of sexual intercourse
17 indicating freely given agreement to have sexual
18 intercourse.

19 (a) Evidence of specific instances of the victim's
20 sexual conduct, opinion evidence of the victim's sexual
21 conduct, and reputation evidence of the victim's sexual
22 conduct shall not be admitted under this part unless and
23 only to the extent that the judge finds that the following -
24 proposed evidence is relevant to a fact at issue in the case
25 and that its inflammatory or prejudicial nature does not

1 outweigh its probative value:

2 (i) evidence of the victim's past sexual conduct with
3 the accused.

4 (ii) evidence of specific instances of sexual activity
5 showing the source or origin of semen, pregnancy, or
6 disease.

7 (b) If the defendant proposes to offer evidence
8 described in subsection (a) (i) or (ii), the defendant
9 within ten (10) days after the arraignment shall file a
10 written motion and offer of proof. The court may order a
11 hearing to be held in chambers, to determine whether the
12 proposed evidence is admissible under subsection (a). If
13 new information is discovered during the course of the trial
14 that may make the evidence described in subsection (a) (i)
15 or (ii) admissible, the judge may order a hearing in
16 chambers to determine whether the proposed evidence is
17 admissible under subsection (a).

18 (7) Failure of the victim to make an immediate outcry
19 shall not be a requirement of the offense set forth in this
20 part; nor shall it be used to discredit the testimony of the
21 victim in prosecutions under this part. "Immediate outcry"
22 shall include but not be limited to outcry at the time of or
23 immediately after the event, disclosure to law enforcement
24 or other authorities, or to medical personnel.

-End-

Approved by Committee
on Judiciary

1 SENATE BILL NO. 283
2 INTRODUCED BY SEIBEL, BOYLAN, WARDEN, MANLEY, REGAN, ROSELL,
3 CONOVER, BLAYLOCK, JERGESON, MEHRENS, R. SMITH, NELSON
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
6 PROVISIONS OF MONTANA'S SEXUAL CRIMES STATUTES PERTAINING TO
7 SEXUAL INTERCOURSE WITHOUT CONSENT; AMENDING ~~SECTIONS~~
8 SECTION 94-5-501-AND 94-5-503, R.C.M. 1947."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 (Strike everything after the enacting clause and insert:)
12 Section 1. Section 94-5-503, R.C.M. 1947, is amended
13 to read as follows:
14 "94-5-503. Sexual intercourse without consent. (1) A
15 male person who knowingly has sexual intercourse without
16 consent with a female person not his spouse commits the
17 offense of sexual intercourse without consent.
18 (2) A person convicted of sexual intercourse without
19 consent shall be imprisoned in the state prison for any term
20 not to exceed twenty (20) years.
21 (3) If the victim is less than sixteen (16) years old
22 and the offender is three (3) or more years older than the
23 victim, or if the offender inflicts bodily injury upon
24 anyone in the course of committing sexual intercourse
25 without consent, he shall be imprisoned in the state prison

1 for any term not to exceed forty (40) years.
2 (4) An act "in the course of committing sexual
3 intercourse without consent" shall include an attempt to
4 commit the offense or flight after the attempt or
5 commission.
6 (5) No evidence concerning the sexual conduct of the
7 victim is admissible in prosecutions under this section,
8 except:
9 (a) Evidence of the victim's past sexual conduct with
10 the offender;
11 (b) Evidence of specific instances of the victim's
12 sexual activity to show the origin of semen, pregnancy, or
13 disease which is at issue in the prosecution under this
14 section.
15 If the defendant proposes, for any purpose, to offer
16 evidence described in (a) or (b), the trial judge shall
17 order a hearing out of the presence of the jury to determine
18 whether the proposed evidence is admissible under this
19 subsection."

-End-

SECOND READING

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SENATE BILL NO. 283

INTRODUCED BY SEIBEL, BOYLAN, WARDEN, MANLEY, REGAN, ROSELL,
 CONOVER, BLAYLOCK, JERGESON, MEHRENS, R. SMITH, NELSON

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 (Strike everything after the enacting clause and insert:)

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 to read as follows:

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 male person who knowingly has sexual intercourse without
 consent with a female person not his spouse commits the
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(3) If the victim is less than sixteen (16) years old
 and the offender is three (3) or more years older than the
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(4) An act "in the course of committing sexual
 intercourse without consent" shall include an attempt to
 commit the offense or flight after the attempt or
 commission.

(5) No evidence concerning the sexual conduct of the
 victim is admissable in prosecutions under this section,
 except:

(a) Evidence of the victim's past sexual conduct with
 the offender;

(b) Evidence of specific instances of the victim's
 sexual activity to show the origin of semen, pregnancy, or
 disease which is at issue in the prosecution under this
 section.

If the defendant proposes, for any purpose, to offer
 evidence described in (a) or (b), the trial judge shall
 order a hearing out of the presence of the jury to determine
 whether the proposed evidence is admissable under this
 subsection.

(6) IF THE ISSUE OF FAILURE TO MAKE A TIMELY COMPLAINT
 OR IMMEDIATE OUTCRY IS RAISED, THE JURY SHALL BE INFORMED
 THAT SUCH FACT, STANDING ALONE, MAY NOT BAR CONVICTION."

-End-

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(4) An act "in the course of committing sexual
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(5) No evidence concerning the sexual conduct of the
victim is admissable in prosecutions under this section,
except:

(a) Evidence of the victim's past sexual conduct with
the offender;

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evidence described in (a) or (b), the trial judge shall
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OR IMMEDIATE OUTCRY IS RAISED, THE JURY SHALL BE INFORMED
THAT SUCH FACT, STANDING ALONE, MAY NOT BAR CONVICTION."

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