

1 INTRODUCTION BY *Senate* BILL NO. 339
2 *Rhodes*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT, IN A
5 CRIMINAL PROSECUTION FOR RAPE, EVIDENCE OF FAILURE TO MAKE A
6 TIMELY COMPLAINT DOES NOT RAISE ANY PRESUMPTION AS TO THE
7 CREDIBILITY OF THE VICTIM; AMENDING SECTION 94-5-503, R.C.M.
8 1947."

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

11 Section 1. Section 94-5-503, R.C.M. 1947, is amended
12 to read as follows:

13 "94-5-503. Sexual intercourse without consent. (1) A
14 person who knowingly has sexual intercourse without consent
15 with a person not his spouse commits the offense of sexual
16 intercourse without consent.

17 (2) A person convicted of sexual intercourse without
18 consent shall be imprisoned in the state prison for any term
19 not to exceed twenty (20) years.

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

INTRODUCED BILL

1 (4) An act "in the course of committing sexual
2 intercourse without consent" shall include an attempt to
3 commit the offense or flight after the attempt or
4 commission.

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

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

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

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

19 ~~If the issue of failure to make a timely complaint~~
20 ~~or immediate outcry is raised, the jury shall be informed~~
21 ~~that such fact, standing alone, may not bar conviction.~~
22 Evidence of failure to make a timely complaint does not
23 raise any presumption as to the credibility of the victim.

-End-

SB 339

Approved by Committee
on Judiciary

SENATE BILL NO. 339

INTRODUCED BY REGAN, ROBERTS

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(4) An act "in the course of committing sexual
intercourse without consent" shall include an attempt to
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(5) No evidence concerning the sexual conduct of the
victim is admissible in prosecutions under this section,
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~~(6) If the issue of failure to make a timely complaint
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that such fact, standing alone, may not bar conviction.~~
Evidence of failure to make a timely complaint OR IMMEDIATE
OUTCRY does not raise any presumption as to the credibility
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THIRD READING

1 (4) An act "in the course of committing sexual
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