

CHAPTER NO. 687

HOUSE BILL NO. 652

INTRODUCED BY HARPER, MANNING, BENGTON

IN THE HOUSE

February 8, 1979	Introduced and referred to Committee on Judiciary.
February 14, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
February 16, 1979	Objection to Consent Calendar. Referred to second reading.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 21, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1979	Second reading, concurred in.
March 26, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 27, 1979	Returned from second house. Concurred in as amended.
March 29, 1979	Second reading, amendments rejected.

March 29, 1979	On motion Joint Conference Committee requested.
March 30, 1979	Joint Conference Committee appointed.
April 18, 1979	Joint Conference Committee dissolved.
	On motion Free Joint Conference Committee requested and appointed.
April 19, 1979	Free Joint Conference Committee reported.
	Second reading, adopted.
	Third reading, adopted.
	Adopted by second house.
April 20, 1979	Sent to enrolling.
	Reported correctly enrolled.

1 House BILL NO. 652
 2 INTRODUCED BY Hayden Manning, Bangor
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 45-5-501, MCA, RELATING TO THE DEFINITIONS OF TERMS USED IN
 6 THE SEXUAL CRIMES STATUTES, TO MAKE THE DEFINITION OF
 7 "WITHOUT CONSENT" APPLICABLE TO SEXUAL ASSAULT."

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

10 Section 1. Section 45-5-501, MCA, is amended to read:

11 "45-5-501. Definition. As used in ~~45-5-502~~, 45-5-503,
 12 and 45-5-505, the term "without consent" means:

- 13 (1) the victim is compelled to submit by force or by
- 14 threat of imminent death, bodily injury, or kidnapping to be
- 15 inflicted on anyone; or
- 16 (2) the victim is incapable of consent because he is:
- 17 (a) mentally defective or incapacitated;
- 18 (b) physically helpless; or
- 19 (c) less than 16 years old."

-End-

Manning
 INTRODUCED BILL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

House BILL NO. *652*

INTRODUCED BY *Hayes Manning, Bangor*

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 45-5-501, MCA, RELATING TO THE DEFINITIONS OF TERMS USED IN THE SEXUAL CRIMES STATUTES, TO MAKE THE DEFINITION OF "WITHOUT CONSENT" APPLICABLE TO SEXUAL ASSAULT."

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

Section 1. Section 45-5-501, MCA, is amended to read:

"45-5-501. Definition. As used in ~~45-5-502~~, 45-5-503, and 45-5-505, the term "without consent" means:

- (1) the victim is compelled to submit by force or by threat of imminent death, bodily injury, or kidnapping to be inflicted on anyone; or
- (2) the victim is incapable of consent because he is:
 - (a) mentally defective or incapacitated;
 - (b) physically helpless; or
 - (c) less than 16 years old."

-End-

HE 652

THIRD READING

1 HOUSE BILL NO. 652
 2 INTRODUCED BY HARPER, MANNING, BENGTSOIN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 ~~45-5-501, MCA, RELATING TO THE DEFINITIONS OF TERMS USED IN~~
 6 ~~THE SEXUAL CRIMES STATUTES, TO MAKE THE DEFINITION OF~~
 7 ~~WITHOUT CONSENT APPLICABLE THE LAW RELATING TO SEXUAL~~
 8 ~~ASSAULT BY PROVIDING THAT CONSENT IS INEFFECTIVE IN CERTAIN~~
 9 ~~CIRCUMSTANCES; AMENDING SECTION 45-5-502, MCA."~~

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 ~~Section 1. Section 45-5-501, MCA, is amended to read:~~
 13 ~~"45-5-501. Definitions. As used in 45-5-502, 45-5-503,~~
 14 ~~and 45-5-505, the term "without consent" means:~~
 15 ~~(1) the victim is compelled to submit by force or by~~
 16 ~~threat of imminent death, bodily injury, or kidnapping to be~~
 17 ~~inflicted on anyone; or~~
 18 ~~(2) the victim is incapable of consent because he is~~
 19 ~~(a) mentally defective or incapacitated;~~
 20 ~~(b) physically helpless; or~~
 21 ~~(c) less than 16 years old."~~

22 SECTION 1. SECTION 45-5-502, MCA, IS AMENDED TO READ:
 23 "45-5-502. Sexual assault. (1) A person who knowingly
 24 subjects another not his spouse to any sexual contact
 25 without consent commits the offense of sexual assault.

1 (2) A person convicted of sexual assault shall be
 2 fined not to exceed \$500 or be imprisoned in the county jail
 3 for any term not to exceed 6 months.

4 (3) If the victim is less than 16 years old and the
 5 offender is 3 or more years older than the victim or if the
 6 offender inflicts bodily injury upon anyone in the course of
 7 committing sexual assault, he shall be imprisoned in the
 8 state prison for any term not to exceed 20 years.

9 (4) An act "in the course of committing sexual
 10 assault" shall include an attempt to commit the offense or
 11 flight after the attempt or commission.

12 (5) Consent is ineffective under this section if the
 13 victim is less than 13 years old and the offender is both 3
 14 or more years older than the victim and at least 15 years
 15 old."

-End-

1 HOUSE BILL NO. 652
 2 INTRODUCED BY HARPER, MANNING, BENGTSO
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 ~~45-5-501, MCA, RELATING TO THE DEFINITIONS OF TERMS USED IN~~
 6 ~~THE SEXUAL CRIMES STATUTES, TO MAKE THE DEFINITION OF~~
 7 ~~"WITHOUT CONSENT" APPLICABLE~~ THE LAW RELATING TO SEXUAL
 8 ASSAULT BY PROVIDING THAT CONSENT IS INEFFECTIVE IN CERTAIN
 9 CIRCUMSTANCES; AMENDING SECTION 45-5-502, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 ~~Section 1. Section 45-5-501, MCA, is amended to read:~~
 13 ~~"45-5-501. Definition. As used in 45-5-502, 45-5-503,~~
 14 ~~and 45-5-505, the term "without consent" means:~~
 15 ~~(1) the victim is compelled to submit by force or by~~
 16 ~~threat of imminent death, bodily injury, or kidnapping to be~~
 17 ~~inflicted on anyone; or~~
 18 ~~(2) the victim is incapable of consent because he is:~~
 19 ~~(a) mentally defective or incapacitated;~~
 20 ~~(b) physically helpless; or~~
 21 ~~(c) less than 16 years old."~~

22 SECTION 1. SECTION 45-5-502, MCA, IS AMENDED TO READ:
 23 "45-5-502. Sexual assault. (1) A person who knowingly
 24 subjects another not his spouse to any sexual contact
 25 without consent commits the offense of sexual assault.

1 (2) A person convicted of sexual assault shall be
 2 fined not to exceed \$500 or be imprisoned in the county jail
 3 for any term not to exceed 6 months.
 4 (3) If the victim is less than 16 years old and the
 5 offender is 3 or more years older than the victim or if the
 6 offender inflicts bodily injury upon anyone in the course of
 7 committing sexual assault, he shall be imprisoned in the
 8 state prison for any term not to exceed 20 years.
 9 (4) An act "in the course of committing sexual
 10 assault" shall include an attempt to commit the offense or
 11 flight after the attempt or commission.
 12 (5) Consent is ineffective under this section if the
 13 victim is less than 14 years old and the offender is both
 14 3 or more years older than the victim and at least 15 years
 15 old."

-End-

March 21, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 652, third reading bill, be amended as follows:

1. Title, lines 4 through 7.

Following: "AMEND" on line 4

Strike: remainder of line 4 through "APPLICABLE" on line 7

Insert: "THE LAW RELATING"

2. Title, line 7.

Following: "ASSAULT"

Insert: "BY PROVIDING THAT CONSENT IS INEFFECTIVE IN CERTAIN CIRCUM-
STANCES; AMENDING SECTION 45-5-502, MCA"

3. Page 1, lines 10 through 19.

Strike: section 1 in its entirety

Insert: "Section 1. Section 45-5-502, MCA, is amended to read:

"45-5-502. Sexual assault. (1) A person who knowingly subjects another not his spouse to any sexual contact without consent commits the offense of sexual assault.

(2) A person convicted of sexual assault shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months.

(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, he shall be imprisoned in the state prison for any term not to exceed 20 years.

(4) An act "in the course of committing sexual assault" shall include an attempt to commit the offense or flight after the attempt or commission.

(5) Consent is ineffective under this section if the victim is less than 13 years old and the offender is both 3 or more years older than the victim and at least 15 years old."