

SENATE BILL NO. 294

INTRODUCED BY CRIPPEN, PECK, B. BROWN, PINSONEAULT, MAZUREK,
ECK, BLAYLOCK, YELLOWTAIL, REGAN, DANIELS, HALLIGAN, MILES, CODY,
FRITZ, KEENAN, DRISCOLL, JACOBSON, KADAS, BERGENE, D. BROWN,
REAM, HARPER, ERNST, MILLER, BACHINI, J. BROWN, NATHE,
ADDY, SHAW, RAPP-SVRCEK, J. HAMMOND, MERCER, O'HARA,
M. WILLIAMS, HARDING, CONNELLY, BRADLEY, COMPTON, CONOVER

IN THE SENATE

February 1, 1985	Introduced and referred to Committee on Judiciary.
February 18, 1985	Committee recommend bill do pass. Report adopted.
February 19, 1985	Bill printed and placed on members' desks.
February 20, 1985	Second reading, do pass as amended.
February 21, 1985	Correctly engrossed.
February 22, 1985	Third reading, passed. Ayes, 49; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Judiciary.
March 21, 1985	Committee recommend bill be concurrent in. Report adopted.
March 23, 1985	Second reading, concurred in.
March 26, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

March 26, 1985

Received from House.

March 27, 1985

Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 294

INTRODUCED BY *Senators: Bob Brown, Dick ...*
A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE *Crime*
SEXUAL EXEMPTION IN THE CRIMINAL OFFENSE OF SEXUAL *Inter*
INTERCOURSE WITHOUT CONSENT; AMENDING SECTION 45-5-503, *M.C.A.*
MCA." *Bachinski, J. Brown, ...*

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

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

"45-5-503. Sexual intercourse without consent. (1) A
person who knowingly has sexual intercourse without consent
with a person of the opposite sex ~~not-his-spouse~~ commits the
offense of sexual intercourse without consent.

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

(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 intercourse without consent, he shall be
imprisoned in the state prison for any term of not less than
2 years or more than 40 years and may be fined not more than

\$50,000, except as provided in 46-18-222.

(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 admissible in prosecutions under this section,
except:

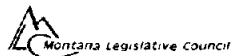
(a) evidence of the victim's past sexual conduct with
the offender;

(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.

(6) If the defendant proposes for any purpose to offer
evidence described in subsection (5)(a) or (5)(b), the trial
judge shall order a hearing out of the presence of the jury
to determine whether the proposed evidence is admissible
under subsection (5).

(7) Evidence of failure to make a timely complaint or
immediate outcry does not raise any presumption as to the
credibility of the victim."

-End-



APPROVED BY COMMITTEE
ON JUDICIARY

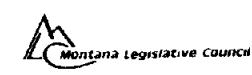
1 Senate BILL NO. 294
 2 INTRODUCED BY *Boz Brown, Dick Harbeck, Theophilus*
 3 *Eck, Yellowtail, Keenan, Orin, J. Brown, J. Hammond, Merce, Hoffman, Harding, Conrad*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
 5 SPOUSAL EXEMPTION IN THE CRIMINAL OFFENSE OF SEXUAL
 6 INTERCOURSE WITHOUT CONSENT; AMENDING SECTION 45-5-503,
 7 MCA." *Beckwith, J. Brown, J. Hammond, Merce, Hoffman, Harding, Conrad*
 8 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 not-his-spouse commits the
 14 offense of sexual intercourse without consent.
 15 (2) A person convicted of sexual intercourse without
 16 consent shall be imprisoned in the state prison for a term
 17 of not less than 2 years or more than 20 years and may be
 18 fined not more than \$50,000, except as provided in
 19 46-18-222.
 20 (3) If the victim is less than 16 years old and the
 21 offender is 3 or more years older than the victim or if the
 22 offender inflicts bodily injury upon anyone in the course of
 23 committing sexual intercourse without consent, he shall be
 24 imprisoned in the state prison for any term of not less than
 25 2 years or more than 40 years and may be fined not more than

1 \$50,000, except as provided in 46-18-222.
 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 (6) If the defendant proposes for any purpose to offer
 16 evidence described in subsection (5)(a) or (5)(b), the trial
 17 judge shall order a hearing out of the presence of the jury
 18 to determine whether the proposed evidence is admissible
 19 under subsection (5).
 20 (7) Evidence of failure to make a timely complaint or
 21 immediate outcry does not raise any presumption as to the
 22 credibility of the victim."

-End-

SECOND READING
SB 294



1 SENATE BILL NO. 294

2 INTRODUCED BY CRIPPEN, PECK, B. BROWN, PINSONEAULT,
 3 MAZUREK, ECK, BLAYLOCK, YELLOWTAIL, REGAN, DANIELS,
 4 HALLIGAN, MILES, CODY, FRITZ, KEENAN, DRISCOLL,
 5 JACOBSON, KADAS, BERGENE, D. BROWN, REAM,
 6 HARPER, ERNST, MILLER, BACHINI, J. BROWN,
 7 NATHE, ADDY, SHAW, RAPP-SVRCEK, J. HAMMOND,
 8 MERCER, O'HARA, M. WILLIAMS, HARDING,
 9 CONNELLY, BRADLEY, COMPTON, CONOVER

10
 11 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
 12 SPOUSAL EXEMPTION IN THE CRIMINAL OFFENSE OF SEXUAL
 13 INTERCOURSE WITHOUT CONSENT; AMENDING SECTION 45-5-503,
 14 MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

18 "45-5-503. Sexual intercourse without consent. (1) A
 19 person who knowingly has sexual intercourse without consent
 20 with a person of the opposite sex ~~not-his-spouse~~ commits the
 21 offense of sexual intercourse without consent. A PERSON MAY
 22 NOT BE CONVICTED UNDER THIS SECTION BASED ON THE AGE OF HIS
 23 SPOUSE AS PROVIDED IN 45-5-501(2)(C).

24 (2) A person convicted of sexual intercourse without
 25 consent shall be imprisoned in the state prison for a term

1 of not less than 2 years or more than 20 years and may be
 2 fined not more than \$50,000, except as provided in
 3 46-18-222.

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 intercourse without consent, he shall be
 8 imprisoned in the state prison for any term of not less than
 9 2 years or more than 40 years and may be fined not more than
 10 \$50,000, except as provided in 46-18-222.

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

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

18 (a) evidence of the victim's past sexual conduct with
 19 the offender;

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

24 (6) If the defendant proposes for any purpose to offer
 25 evidence described in subsection (5)(a) or (5)(b), the trial

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1 judge shall order a hearing out of the presence of the jury
2 to determine whether the proposed evidence is admissible
3 under subsection (5).

4 (7) Evidence of failure to make a timely complaint or
5 immediate outcry does not raise any presumption as to the
6 credibility of the victim."

-End-

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INTRODUCED BY CRIPPEN, PECK, B. BROWN, PINSONEAULT, MAZUREK, ECK, BLAYLOCK, YELLOWTAIL, REGAN, DANIELS, HALLIGAN, MILES, CODY, FRITZ, KEENAN, DRISCOLL, JACOBSON, KADAS, BERGENE, D. BROWN, REAM, HARPER, ERNST, MILLER, BACHINI, J. BROWN, NATHE, ADDY, SHAW, RAPP-SVRCEK, J. HAMMOND, MERCER, O'HARA, M. WILLIAMS, HARDING, CONNELLY, BRADLEY, COMPTON, CONOVER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE SPOUSAL EXEMPTION IN THE CRIMINAL OFFENSE OF SEXUAL INTERCOURSE WITHOUT CONSENT; AMENDING SECTION 45-5-503, MCA."

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

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

"45-5-503. Sexual intercourse without consent. (1) A person who knowingly has sexual intercourse without consent with a person of the opposite sex not-his-spouse commits the offense of sexual intercourse without consent. A PERSON MAY NOT BE CONVICTED UNDER THIS SECTION BASED ON THE AGE OF HIS SPOUSE AS PROVIDED IN 45-5-501(2)(C).

(2) A person convicted of sexual intercourse without consent shall be imprisoned in the state prison for a term

of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(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 intercourse without consent, he shall be imprisoned in the state prison for any term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(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 admissible 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.

(6) If the defendant proposes for any purpose to offer evidence described in subsection (5)(a) or (5)(b), the trial

REFERENCE BILL



1 judge shall order a hearing out of the presence of the jury
2 to determine whether the proposed evidence is admissible
3 under subsection (5).

4 (7) Evidence of failure to make a timely complaint or
5 immediate outcry does not raise any presumption as to the
6 credibility of the victim."

-End-