

SENATE BILL NO. 293

INTRODUCED BY MAZUREK, ELLIOTT, VAN VALKENBURG, DARKO,
GOULD, O'KEEFE, COHEN, REHBERG, L. NELSON, COCCHIARELLA,
SPRING, MCDONOUGH, WYATT, PECK, BROOKE, BACHINI, CONNELLY,
PETERSON, BRADLEY, LEE, GERVAIS, GOOD, CAMPBELL, ZOOK,
HOFFMAN, VINCENT, GIACOMETTO, KNAPP, KELLER, HARPER,
ADDY, MENAHAN, DRISCOLL, STANG, BARDANOUVE, RUSSELL,
STICKNEY, KILPATRICK, CLARK, DAILY, PAVLOVICH, SPAETH,
MERCER, THOMAS, PATTERSON, SIMON, PHILLIPS, IVERSON,
O'CONNELL, MCCORMICK, SQUIRES, KADAS, HANSEN,
DAVIS, KOEHNKE, RAPP-SVRCEK, MOORE

IN THE SENATE

JANUARY 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 4, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 6, 1989	PRINTING REPORT.
FEBRUARY 7, 1989	SECOND READING, DO PASS.
FEBRUARY 8, 1989	ENGROSSING REPORT.
FEBRUARY 9, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 9, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 13, 1989	SECOND READING, CONCURRED IN.

MARCH 15, 1989

THIRD READING, CONCURRED IN.
AYES, 89; NOES, 1.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL NO. 293
INTRODUCED BY *Therese Ellett Van Valkenburg Mark Peterson*
L. Nelson
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT MALICIOUS
INTIMIDATION OR HARASSMENT OF PERSONS BECAUSE OF RACE,
CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR INVOLVEMENT IN
CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES; AND TO ENHANCE THE
PENALTY FOR OTHER OFFENSES COMMITTED BECAUSE OF THE VICTIM'S
RACE, CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR
INVOLVEMENT IN CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES."

WHEREAS, the Legislature finds and declares that it is
the right of every person, regardless of race, creed,
religion, color, national origin, or political or religious
ideas, to be secure and protected from fear, intimidation,
harassment, and physical harm caused by the activities of
groups and individuals; and

WHEREAS, the Legislature recognizes the constitutional
right of every citizen to harbor and express beliefs on any
subject and to associate with others who share similar
beliefs; and

WHEREAS, it is not the intent, by enactment of [this
act], to interfere with the exercise of rights protected by
the constitution of the State of Montana or the United
States; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WHEREAS, the Legislature further recognizes and finds
that the advocacy of unlawful acts by groups or individuals
against other persons or groups for the purpose of inciting
and provoking damage to property and bodily injury or death
to persons is not constitutionally protected, poses a threat
to public order and safety, and should be subject to
criminal sanctions.

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

NEW SECTION. **Section 1. Malicious intimidation or
harassment.** (1) A person commits the offense of malicious
intimidation or harassment when, because of another person's
race, creed, religion, color, national origin, or
involvement in civil rights or human rights activities, he
purposely or knowingly, with the intent to terrify,
intimidate, threaten, harass, annoy, or offend:

(a) causes bodily injury to another;
(b) causes reasonable apprehension of bodily injury in
another; or

(c) damages, destroys, or defaces any property of
another or any public property.

(2) For purposes of this section, "deface" includes
but is not limited to cross burning or the placing of any
word or symbol commonly associated with racial, religious,

1 or ethnic activities on the property of another person
2 without his or her permission.

3 NEW SECTION. Section 2. Penalty. A person convicted
4 of the offense of malicious intimidation or harassment shall
5 be imprisoned in the state prison for a term not to exceed 5
6 years or be fined an amount not to exceed \$5,000, or both.

7 NEW SECTION. Section 3. Sentence enhancement --
8 offenses committed because of victim's race, creed,
9 religion, color, national origin, or involvement in civil
10 rights or human rights activities. (1) A person who has been
11 found guilty of any offense, except malicious intimidation
12 or harassment, that was committed because of the victim's
13 race, creed, religion, color, national origin, or
14 involvement in civil rights or human rights activities or
15 that involved damage, destruction, or attempted destruction
16 of a building regularly used for religious worship, in
17 addition to the punishment provided for commission of the
18 offense, may be sentenced to a term of imprisonment of not
19 less than 2 years or more than 10 years, except as provided
20 in 46-18-222.

21 (2) An additional sentence prescribed by subsection
22 (1) shall run consecutively to the sentence, except as
23 provided in 46-18-222.

24 NEW SECTION. Section 4. Severability. If a part of
25 [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this
2 act] is invalid in one or more of its applications, the part
3 remains in effect in all valid applications that are
4 severable from the invalid applications.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 293

INTRODUCED BY

THOMAS NELSON
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT MALICIOUS
INTIMIDATION OR HARASSMENT OF PERSONS BECAUSE OF RACE,
CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR INVOLVEMENT IN
CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES; AND TO ENHANCE THE
PENALTY FOR OTHER OFFENSES COMMITTED BECAUSE OF THE VICTIM'S
RACE, CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR
INVOLVEMENT IN CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES."

WHEREAS, the Legislature finds and declares that it is
the right of every person, regardless of race, creed,
religion, color, national origin, or political or religious
ideas, to be secure and protected from fear, intimidation,
harassment, and physical harm caused by the activities of
groups and individuals; and

WHEREAS, the Legislature recognizes the constitutional
right of every citizen to harbor and express beliefs on any
subject and to associate with others who share similar
beliefs; and

WHEREAS, it is not the intent, by enactment of [this
act], to interfere with the exercise of rights protected by
the constitution of the State of Montana or the United
States; and

WHEREAS, the Legislature further recognizes and finds
that the advocacy of unlawful acts by groups or individuals
against other persons or groups for the purpose of inciting
and provoking damage to property and bodily injury or death
to persons is not constitutionally protected, poses a threat
to public order and safety, and should be subject to
criminal sanctions.

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

NEW SECTION. **Section 1. Malicious intimidation or
harassment.** (1) A person commits the offense of malicious
intimidation or harassment when, because of another person's
race, creed, religion, color, national origin, or
involvement in civil rights or human rights activities, he
purposely or knowingly, with the intent to terrify,
intimidate, threaten, harass, annoy, or offend:

(a) causes bodily injury to another;

(b) causes reasonable apprehension of bodily injury in
another; or

(c) damages, destroys, or defaces any property of
another or any public property.

(2) For purposes of this section, "deface" includes
but is not limited to cross burning or the placing of any
word or symbol commonly associated with racial, religious,

1 or ethnic activities on the property of another person
2 without his or her permission.

3 NEW SECTION. Section 2. Penalty. A person convicted
4 of the offense of malicious intimidation or harassment shall
5 be imprisoned in the state prison for a term not to exceed 5
6 years or be fined an amount not to exceed \$5,000, or both.

7 NEW SECTION. Section 3. Sentence enhancement --
8 offenses committed because of victim's race, creed,
9 religion, color, national origin, or involvement in civil
10 rights or human rights activities. (1) A person who has been
11 found guilty of any offense, except malicious intimidation
12 or harassment, that was committed because of the victim's
13 race, creed, religion, color, national origin, or
14 involvement in civil rights or human rights activities or
15 that involved damage, destruction, or attempted destruction
16 of a building regularly used for religious worship, in
17 addition to the punishment provided for commission of the
18 offense, may be sentenced to a term of imprisonment of not
19 less than 2 years or more than 10 years, except as provided
20 in 46-18-222.

21 (2) An additional sentence prescribed by subsection
22 (1) shall run consecutively to the sentence, except as
23 provided in 46-18-222.

24 NEW SECTION. Section 4. Severability. If a part of
25 [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this
2 act] is invalid in one or more of its applications, the part
3 remains in effect in all valid applications that are
4 severable from the invalid applications.

-End-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL NO. 293
INTRODUCED BY *Thomson E. J. Lett* *Van Valkenburg* *Warkentin*
L. Nelson *Cochran* *Grady* *Connelly* *Peterson*
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT MALICIOUS
INTIMIDATION OR HARASSMENT OF PERSONS BECAUSE OF RACE,
CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR INVOLVEMENT IN
CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES; AND TO ENHANCE THE
PENALTY FOR OTHER OFFENSES COMMITTED BECAUSE OF THE VICTIM'S
RACE, CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR
INVOLVEMENT IN CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES." *Moore*

WHEREAS, the Legislature finds and declares that it is
the right of every person, regardless of race, creed,
religion, color, national origin, or political or religious
ideas, to be secure and protected from fear, intimidation,
harassment, and physical harm caused by the activities of
groups and individuals; and

WHEREAS, the Legislature recognizes the constitutional
right of every citizen to harbor and express beliefs on any
subject and to associate with others who share similar
beliefs; and

WHEREAS, it is not the intent, by enactment of [this
act], to interfere with the exercise of rights protected by
the constitution of the State of Montana or the United
States; and

1 WHEREAS, the Legislature further recognizes and finds
2 that the advocacy of unlawful acts by groups or individuals
3 against other persons or groups for the purpose of inciting
4 and provoking damage to property and bodily injury or death
5 to persons is not constitutionally protected, poses a threat
6 to public order and safety, and should be subject to
7 criminal sanctions.

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

11 NEW SECTION. **Section 1. Malicious intimidation or**
12 **harassment.** (1) A person commits the offense of malicious
13 intimidation or harassment when, because of another person's
14 race, creed, religion, color, national origin, or
15 involvement in civil rights or human rights activities, he
16 purposely or knowingly, with the intent to terrify,
17 intimidate, threaten, harass, annoy, or offend:

18 (a) causes bodily injury to another;
19 (b) causes reasonable apprehension of bodily injury in
20 another; or

21 (c) damages, destroys, or defaces any property of
22 another or any public property.

23 (2) For purposes of this section, "deface" includes
24 but is not limited to cross burning or the placing of any
25 word or symbol commonly associated with racial, religious,

1 or ethnic activities on the property of another person
2 without his or her permission.

3 NEW SECTION. Section 2. Penalty. A person convicted
4 of the offense of malicious intimidation or harassment shall
5 be imprisoned in the state prison for a term not to exceed 5
6 years or be fined an amount not to exceed \$5,000, or both.

7 NEW SECTION. Section 3. Sentence enhancement --
8 offenses committed because of victim's race, creed,
9 religion, color, national origin, or involvement in civil
10 rights or human rights activities. (1) A person who has been
11 found guilty of any offense, except malicious intimidation
12 or harassment, that was committed because of the victim's
13 race, creed, religion, color, national origin, or
14 involvement in civil rights or human rights activities or
15 that involved damage, destruction, or attempted destruction
16 of a building regularly used for religious worship, in
17 addition to the punishment provided for commission of the
18 offense, may be sentenced to a term of imprisonment of not
19 less than 2 years or more than 10 years, except as provided
20 in 46-18-222.

21 (2) An additional sentence prescribed by subsection
22 (1) shall run consecutively to the sentence, except as
23 provided in 46-18-222.

24 NEW SECTION. Section 4. Severability. If a part of
25 [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this
2 act] is invalid in one or more of its applications, the part
3 remains in effect in all valid applications that are
4 severable from the invalid applications.

-End-

STANDING COMMITTEE REPORT

March 9, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
SENATE BILL 293 (third reading copy -- blue) be concurred in
as amended .

Signed: _____

Kelly Addy
Kelly Addy, Vice-Chairman

[REP. ELLIOTT WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendment read:

1. Page 3, line 1.
Following: "ethnic"
Insert: "identity or"

HOUSE

SB 293

SENATE BILL NO. 293

INTRODUCED BY MAZUREK, ELLIOTT, VAN VALKENBURG, DARKO,
GOULD, O'KEEFE, COHEN, REHBERG, L. NELSON, COCCHIARELLA,
SPRING, MCDONOUGH, WYATT, PECK, BROOKE, BACHINI, CONNELLY,
PETERSON, BRADLEY, LEE, GERVAIS, GOOD, CAMPBELL, ZOOK,
HOFFMAN, VINCENT, GIACOMETTO, KNAPP, KELLER, HARPER,
ADDY, MENAHAN, DRISCOLL, STANG, BARDANOUVE, RUSSELL,
STICKNEY, KILPATRICK, CLARK, DAILY, PAVLOVICH, SPAETH,
MERCER, THOMAS, PATTERSON, SIMON, PHILLIPS, IVERSON,
O'CONNELL, MCCORMICK, SQUIRES, KADAS, HANSEN,
DAVIS, KOEHNKE, RAPP-SVRCEK, MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT MALICIOUS
INTIMIDATION OR HARASSMENT OF PERSONS BECAUSE OF RACE,
CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR INVOLVEMENT IN
CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES; AND TO ENHANCE THE
PENALTY FOR OTHER OFFENSES COMMITTED BECAUSE OF THE VICTIM'S
RACE, CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR
INVOLVEMENT IN CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES."

WHEREAS, the Legislature finds and declares that it is
the right of every person, regardless of race, creed,
religion, color, national origin, or political or religious
ideas, to be secure and protected from fear, intimidation,
harassment, and physical harm caused by the activities of

groups and individuals; and

WHEREAS, the Legislature recognizes the constitutional
right of every citizen to harbor and express beliefs on any
subject and to associate with others who share similar
beliefs; and

WHEREAS, it is not the intent, by enactment of [this
act], to interfere with the exercise of rights protected by
the constitution of the State of Montana or the United
States; and

WHEREAS, the Legislature further recognizes and finds
that the advocacy of unlawful acts by groups or individuals
against other persons or groups for the purpose of inciting
and provoking damage to property and bodily injury or death
to persons is not constitutionally protected, poses a threat
to public order and safety, and should be subject to
criminal sanctions.

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

NEW SECTION. **Section 1.** Malicious intimidation or
harassment. (1) A person commits the offense of malicious
intimidation or harassment when, because of another person's
race, creed, religion, color, national origin, or
involvement in civil rights or human rights activities, he
purposely or knowingly, with the intent to terrify,
intimidate, threaten, harass, annoy, or offend:

(a) causes bodily injury to another;

(b) causes reasonable apprehension of bodily injury in another; or

(c) damages, destroys, or defaces any property of another or any public property.

(2) For purposes of this section, "deface" includes but is not limited to cross burning or the placing of any word or symbol commonly associated with racial, religious, or ethnic IDENTITY OR activities on the property of another person without his or her permission.

NEW SECTION. Section 2. Penalty. A person convicted of the offense of malicious intimidation or harassment shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

NEW SECTION. Section 3. Sentence enhancement -- offenses committed because of victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities. (1) A person who has been found guilty of any offense, except malicious intimidation or harassment, that was committed because of the victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities or that involved damage, destruction, or attempted destruction of a building regularly used for religious worship, in addition to the punishment provided for commission of the

offense, may be sentenced to a term of imprisonment of not less than 2 years or more than 10 years, except as provided in 46-18-222.

(2) An additional sentence prescribed by subsection (1) shall run consecutively to the sentence, except as provided in 46-18-222.

NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-