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.

51st Legislature

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BILL NO. 293 1 INTRODUCED BY 2 3 MALICIOUS PROHIBIT "AN ACT BECAUSE RACE PERSONS 5 DATION INVOLVEMENT. 6 IES: AND TO ENHANCE THE 7 EX. MERCE Thomas Maan TTED BECAUSE OF THE VICTIM'S. NATIONAL ORIGIN я 9 10

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12 WHEREAS, the Legislature finds and declares that it is 13 the right of every person, regardless of race, creed, 14 religion, color, national origin, or political or religious 15 ideas, to be secure and protected from fear, intimidation, 16 harassment, and physical harm caused by the activities of 17 groups and individuals; and

18 WHEREAS, the Legislature recognizes the constitutional 19 right of every citizen to harbor and express beliefs on any 20 subject and to associate with others who share similar 21 beliefs; and

22 WHEREAS, it is not the intent, by enactment of [this 23 act], to interfere with the exercise of rights protected by 24 the constitution of the State of Montana or the United 25 States; and

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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.

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;

(b) causes reasonable apprehension of bodily injury inanother; 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,

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

3 NEW SECTION. Section 2. Penalty. A person convicted of the offense of malicious intimidation or harassment shall đ 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.

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

24 <u>NEW SECTION.</u> Section 4. Severability. If a part of 25 [this act] is invalid, all valid parts that are severable LC 1290/01

- 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-

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51st Legislature

LC 1290/01

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APPROVED BY COMMITTEE ON JUDICIARY 17 BILL NO. 293 1 Van Valkulara INTRODUCED BY 2 1 "AN ACT PROHIBIT MALICIOUS OF PERSONS BECAUSE MIDATION RACE S unchan INVOLVEMEN ORIGIN OR COLOR, NATIONAL 6 ACTIVITIES: AND TO ENHANCE THE 7 MITTED BECAUSE OF THE VICTIM'S FENSES Atennell miche Aquines Kattas RELIGION. NATIONAL COLOR OR Toelno souther 1 dres 2 INVOLVEMENT IN CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES. 10

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12 WHEREAS, the Legislature finds and declares that it is 13 the right of every person, regardless of race, creed, 14 religion, color, national origin, or political or religious 15 ideas, to be secure and protected from fear, intimidation, 16 harassment, and physical harm caused by the activities of 17 groups and individuals; and

18 WHEREAS, the Legislature recognizes the constitutional 19 right of every citizen to harbor and express beliefs on any 20 subject and to associate with others who share similar 21 beliefs; and

22 WHEREAS, it is not the intent, by enactment of [this 23 act], to interfere with the exercise of rights protected by 24 the constitution of the State of Montana or the United 25 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.

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18 (a) causes bodily injury to another;

(b) causes reasonable apprehension of bodily injury inanother; or

(c) damages, destroys, or defaces any property ofanother 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,

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(2) An additional sentence prescribed by subsection
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24 <u>NEW SECTION</u>. 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.

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12 WHEREAS, the Legislature finds and declares that it is 13 the right of every person, regardless of race, creed, religion, color, national origin, or political or religious 14 15 ideas, to be secure and protected from fear, intimidation, 16 harassment, and physical harm caused by the activities of 17 groups and individuals; and

18 WHEREAS, the Legislature recognizes the constitutional 19 right of every citizen to harbor and express beliefs on any 20 subject and to associate with others who share similar 21 beliefs; and

22 WHEREAS, it is not the intent, by enactment of [this 23 act], to interfere with the exercise of rights protected by 24 the constitution of the State of Montana or the United 25 States; and



1 WHEREAS, the Legislature further recognizes and finds that the advocacy of unlawful acts by groups or individuals 2 against other persons or groups for the purpose of inciting 3 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.

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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 word or symbol commonly associated with racial, religious, 25

THIRD READING -2-SB 293

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

3 <u>NEW SECTION.</u> 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 involvement in civil rights or human rights activities or 14 that involved damage, destruction, or attempted destruction 15 16 of a building regularly used for religious worship, in addition to the punishment provided for commission of the 17 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.

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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.

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STANDING COMMITTEE REPORT

March 9, 1989 Page 1 of 1

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

Signed: man ce

[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 0293/02

1 SENATE BILL NO. 293 1 INTRODUCED BY MAZUREK, ELLIOTT, VAN VALKENBURG, DARKO, 2 2 GOULD, O'KEEFE, COHEN, REHBERG, L. NELSON, COCCHIARELLA, 3 3 SPRING, MCDONOUGH, WYATT, PECK, BROOKE, BACHINI, CONNELLY, 4 4 PETERSON, BRADLEY, LEE, GERVAIS, GOOD, CAMPBELL, ZOOK, 5 beliefs: and 5 HOFFMAN, VINCENT, GIACOMETTO, KNAPP, KELLER, HARPER, 6 б ADDY, MENAHAN, DRISCOLL, STANG, BARDANOUVE, RUSSELL, 7 7 8 STICKNEY, KILPATRICK, CLARK, DAILY, PAVLOVICH, SPAETH, 8 9 MERCER, THOMAS, PATTERSON, SIMON, PHILLIPS, IVERSON, 9 States; and 10 O'CONNELL, MCCORMICK, SOUIRES, KADAS, HANSEN, 10 DAVIS, KOEHNKE, RAPP-SVRCEK, MOORE 11 11 12 12 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT MALICIOUS 13 13 INTIMIDATION OR HARASSMENT OF PERSONS BECAUSE OF RACE, 14 14 15 CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR INVOLVEMENT IN 15 16 CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES; AND TO ENHANCE THE 16 17 PENALTY FOR OTHER OFFENSES COMMITTED BECAUSE OF THE VICTIM'S 17 RACE, CREED, RELIGION, COLOR, NATIONAL ORIGIN, OR 18 18 19 INVOLVEMENT IN CIVIL RIGHTS OR HUMAN RIGHTS ACTIVITIES." 19 20 20 21 WHEREAS, the Legislature finds and declares that it is 21 22 the right of every person, regardless of race, creed,

23 religion, color, national origin, or political or religious 24 ideas, to be secure and protected from fear, intimidation, 25 harassment, and physical harm caused by the activities of

Montana Legislative Council

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

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SB 293 REFERENCE BILL AS AMENDED

SB 0293/02

SB 293

SB 0293/02

(a) causes bodily injury to another;

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2 (b) causes reasonable apprehension of bodily injury in3 another; or

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

6 (2) For purposes of this section, "deface" includes
7 but is not limited to cross burning or the placing of any
8 word or symbol commonly associated with racial, religious,
9 or ethnic <u>IDENTITY OR</u> activities on the property of another
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-End-

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SB 293