

SENATE BILL NO. 29

INTRODUCED BY TOWE

IN THE SENATE

DECEMBER 22, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 4, 1993	FIRST READING.
JANUARY 14, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 15, 1993	PRINTING REPORT.
	SECOND READING, DO NOT PASS.
JANUARY 16, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
JANUARY 18, 1993	SECOND READING, DO PASS.
JANUARY 19, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 29; NOES, 21.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 5, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
FEBRUARY 9, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 13, 1993	THIRD READING, CONCURRED IN. AYES, 98; NOES, 0.
FEBRUARY 15, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

FEBRUARY 18, 1993

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

FEBRUARY 19, 1993

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

## SENATE BILL NO. 29

INTRODUCED BY TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE PENALTY FOR SEXUAL INTERCOURSE WITHOUT CONSENT WHEN TWO OR MORE OFFENDERS WERE INVOLVED; AND AMENDING SECTIONS 45-5-503 AND 46-18-231, 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 another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of his the person's spouse, as provided in 45-5-501(1)(b)(iii).

(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) (a) 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 the

offender 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.

(b) An act "in the course of committing sexual intercourse without consent" ~~shall--include~~ includes an attempt to commit the offense or flight after the attempt or commission.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim at the same time or during the same period of time, each offender shall be imprisoned in the state prison for a term of not less than 10 years or more than 25 years and may be fined not more than \$100,000, except as provided in 46-18-222.

(4) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244."

**Section 2.** Section 46-18-231, MCA, is amended to read:

"46-18-231. Fines in felony and misdemeanor cases. (1) Whenever, upon a verdict or a plea of guilty, a person has

1 been found guilty of an offense for which a felony penalty  
2 of imprisonment could be imposed, the court may impose a  
3 fine, only in accordance with subsection (3), and in lieu of  
4 or in addition to a sentence of imprisonment. For those  
5 crimes for which penalties are provided in 45-5-103,  
6 45-5-202(3), 45-5-302(2), 45-5-303(2), 45-5-401(2),  
7 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and  
8 (5)(d), 45-9-102(4), 45-9-103(2), and 45-9-109, a fine may  
9 be imposed in accordance with subsection (3) in addition to  
10 a sentence of imprisonment.

11 (2) Whenever, upon a verdict or plea of guilty, a  
12 person has been found guilty of an offense for which a  
13 misdemeanor penalty of a fine could be imposed, the court  
14 may impose a fine only in accordance with subsection (3).

15 (3) The court may not sentence a defendant to pay a  
16 fine unless the defendant is or will be able to pay the  
17 fine. In determining the amount and method of payment, the  
18 court shall take into account the nature of the crime  
19 committed, the financial resources of the defendant, and the  
20 nature of the burden that payment of the fine will impose.

21 (4) Any Except for a fine imposed upon conviction under  
22 45-5-503(3)(b), a fine levied under this section in a felony  
23 case shall be in an amount fixed by the court and may not to  
24 exceed \$50,000."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0029, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

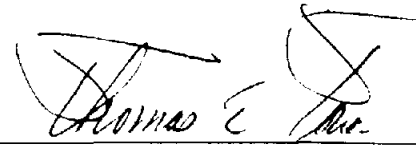
An act increasing the penalty for sexual intercourse without consent when two or more offenders were involved.

FISCAL IMPACT:

The fiscal impact, if any, cannot be determined.

 1-9-93

DAVE LEWIS, BUDGET DIRECTOR  
Office of Budget and Program Planning



THOMAS E. TOWE, PRIMARY SPONSOR

4/12/93  
DATE

Fiscal Note for SB0029, as introduced

SB 29

APPROVED BY COMMITTEE  
ON JUDICIARY

SENATE BILL NO. 29

INTRODUCED BY TOWE

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(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) (a) 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 the

offender 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.

(b) An act "in the course of committing sexual intercourse without consent" ~~shall--include~~ includes an attempt to commit the offense or flight after the attempt or commission.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim at-the-same time--or--during--the-same-period-of-time, IN AN INCIDENT IN WHICH EACH OFFENDER WAS PRESENT AT THE LOCATION WHERE ANOTHER OFFENDER'S OFFENSE OCCURRED DURING A TIME PERIOD IN WHICH EACH OFFENDER COULD HAVE REASONABLY KNOWN OF THE OTHER'S OFFENSE, each offender shall be imprisoned in the state prison for a term of not less than ~~10~~ 5 years or more than 25 40 years and may be fined not more than ~~\$100,000~~ \$50,000, except as provided in 46-18-222.

(4) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined

1 in the same manner as provided for in 46-18-244."

2 **Section 2.** Section 46-18-231, MCA, is amended to read:

3 "46-18-231. Fines in felony and misdemeanor cases. (1)  
4 Whenever, upon a verdict or a plea of guilty, a person has  
5 been found guilty of an offense for which a felony penalty  
6 of imprisonment could be imposed, the court may impose a  
7 fine, only in accordance with subsection (3), and in lieu of  
8 or in addition to a sentence of imprisonment. For those  
9 crimes for which penalties are provided in 45-5-103,  
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12 (5)(d), 45-9-102(4), 45-9-103(2), and 45-9-109, a fine may  
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14 a sentence of imprisonment.

15 (2) Whenever, upon a verdict or plea of guilty, a  
16 person has been found guilty of an offense for which a  
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18 may impose a fine only in accordance with subsection (3).

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20 fine unless the defendant is or will be able to pay the  
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22 court shall take into account the nature of the crime  
23 committed, the financial resources of the defendant, and the  
24 nature of the burden that payment of the fine will impose.

25 (4) Any Except for a fine imposed upon conviction under

1 45-5-503(3)(b), a fine levied under this section in a felony  
2 case shall be in an amount fixed by the court and may not to  
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-End-

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10 intercourse without consent with the same victim at-the-same  
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3 exceed \$50,000."

-End-

HOUSE STANDING COMMITTEE REPORT

February 4, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 29 (third reading copy -- blue) be concurred in as amended .

Signed:   
Russ Fagg, Chair

And, that such amendments read:

Carried by: Rep. Vogel

1. Title, line 6.  
Strike: "SECTIONS"  
Insert: "SECTION"  
Strike: "AND"

2. Title, line 7.  
Strike: "46-18-231"

3. Page 2, line 24.  
Following: "reasonable"  
Insert: "medical and counseling"  
Strike: "of counseling"

4. Page 3, line 2 through line 3 of page 4.  
Strike: section 2 of the bill in its entirety

-END-

Committee Vote:  
Yes 14, No 4.

HOUSE

**SB 29**

sb002901.ajm

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INTRODUCED BY TOWE

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9 ~~or in addition to a sentence--of--imprisonment.--For--those~~  
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-End-