

SB BILL NO. 205

INTRODUCED BY Archie Mitchell

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT TRUTH IS AN ABSOLUTE DEFENSE IN A CRIMINAL DEFAMATION PROCEEDING; AMENDING SECTION 45-8-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Montana Supreme Court in State v. Helfrich, 53 St. Rep. 741 (1996), held that section 45-8-212, MCA, was unconstitutional for not allowing truth as an absolute defense in criminal defamation proceedings.

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

**Section 1.** Section 45-8-212, MCA, is amended to read:

**"45-8-212. Criminal defamation.** (1) Defamatory matter is anything ~~which~~ that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or injury to ~~his~~ the person's or its business or occupation.

(2) Whoever, with knowledge of its defamatory character, orally, in writing, or by any other means communicates any defamatory matter to a third person without the consent of the person defamed commits the offense of criminal defamation and may be sentenced to imprisonment for not more than 6 months in the county jail or a fine of not more than \$500, or both.

(3) Violation of subsection (2) is justified if:

(a) the defamatory matter is true ~~and is communicated with good motives and for justifiable ends;~~

(b) the communication is absolutely privileged;

(c) the communication consists of fair comment made in good faith with respect to persons participating in matters of public concern;

(d) the communication consists of a fair and true report or a fair summary of any judicial, legislative, or other public or official proceedings; or

(e) the communication is between persons each having an interest or duty with respect to the subject matter of the communication and is made with the purpose to further ~~such~~ the interest or duty.

1           (4) ~~No~~ A person ~~shall~~ may not be convicted on the basis of an oral communication of defamatory  
2 matter except upon the testimony of at least two other persons that they heard and understood the oral  
3 statement as defamatory or upon a plea of guilty."

4

5           NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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-END-

APPROVED BY COM  
ON JUDICIARY

SB BILL NO. 205

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*Archie M. ...*

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**Section 1.** Section 45-8-212, MCA, is amended to read:

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## 1 SENATE BILL NO. 205

2 INTRODUCED BY MCNUTT

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