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Senate BILL NO. 291

INTRODUCED BY Sharon Pittenger Jordan Harper

Hill

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING SEXUAL ORIENTATION IN THE LAWS PROHIBITING MALICIOUS INTIMIDATION OR HARASSMENT BASED ON CIVIL OR HUMAN RIGHTS AND PROVIDING FOR SENTENCE ENHANCEMENT FOR MALICIOUS INTIMIDATION OR HARASSMENT BASED ON SEXUAL ORIENTATION; AMENDING SECTIONS 45-5-221 AND 45-5-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 45-5-221, MCA, is amended to read:

"45-5-221. Malicious intimidation or harassment relating to civil or human rights -- penalty. (1)

A person commits the offense of malicious intimidation or harassment when, because of another person's race, creed, religion, color, national origin, sexual orientation, or involvement in civil rights or human rights activities, ~~he~~ the person 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~~ the other person's permission.

(3) 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."

Section 2. Section 45-5-222, MCA, is amended to read:

"45-5-222. Sentence enhancement -- offenses committed because of victim's race, creed, religion,

color, national origin, sexual orientation, 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



1 committed because of the victim's race, creed, religion, color, national origin, sexual orientation, or
2 involvement in civil rights or human rights activities or that involved damage, destruction, or attempted
3 destruction of a building regularly used for religious worship, in addition to the punishment provided for
4 commission of the offense, may be sentenced to a term of imprisonment of not less than 2 years or more
5 than 10 years, except as provided in 46-18-222.

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

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9 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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