

HOUSE BILL NO. 446

INTRODUCED BY J. HINKLE, V. RICCI, S. KLAKKEN, G. OVERSTREET, L. BENNETT, C. SCHOMER, T. MILLETT, C. HINKLE, N. NICOL, A. REGIER, C. SPRUNGER, D. LOGE, S. VINTON, B. LER, R. MINER, K. ZOLNIKOV, L. DEMING, F. NAVE, J. GILLETTE, D. LENZ, J. TREBAS, T. TEZAK, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE EXPOSURE OF A PERSON'S INTIMATE PARTS IN A PUBLIC PLACE TO MEMBERS OF THE OPPOSITE SEX OR THE OPPOSITE SEX ASSIGNED OBSERVED AT BIRTH TO THE PERSON CONSTITUTES INDECENT EXPOSURE; PROVIDING A DEFINITION; AMENDING SECTIONS 45-5-504 AND 46-23-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 45-5-504, MCA, is amended to read:

**"45-5-504. Indecent exposure.** (1) A person commits the offense of indecent exposure if the person knowingly or purposely exposes the person's genitals or intimate parts by any means, including electronic communication as defined in 45-5-625(5)(a), under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:

(a) abuse, humiliate, harass, violate the dignity of, or degrade another; or  
(b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(2) (a) A person convicted of the offense of indecent exposure shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both.

(b) On a second conviction, the person shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both.

(c) On a third or subsequent conviction, the person shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term of not more than 10 years, or both.

(3) (a) A person commits the offense of indecent exposure to a minor if the person commits an

offense under subsection (1) and the person knows the conduct will be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim.

(b) A person convicted of the offense of indecent exposure to a minor shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years, or both.

(4) (a) Except when a minor is accompanied by a parent or guardian, or when an individual with developmental disabilities is accompanied by a parent, guardian, or other caretaker or health care provider designated by the parent or guardian, a person commits the offense of indecent exposure in a public place when the person knowingly or purposely, UNDER CIRCUMSTANCES IN WHICH THE PERSON KNOWS THE CONDUCT IS LIKELY TO CAUSE AFFRONT OR ALARM, exposes their genitals or intimate parts to members of the opposite biological sex or opposite the person's ~~assigned~~ sex OBSERVED at birth.

(b) (i) A person convicted of the offense of indecent exposure shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both.

(ii) On a second conviction, the person shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both.

(iii) On a third or subsequent conviction, the person shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term of not more than 10 years, or both.

(c) As used in this subsection (4), "public place" means a place to which the public or a group of persons has access and includes but is not limited to transportation facilities, restrooms, locker rooms, dressing rooms, and showers that are designated for multiperson, single-sex use, schools, places of amusement, parks, places of business, playgrounds, and hallways, lobbies, and other portions of apartment houses, multifamily dwellings, and hotels, except for rooms or apartments designed for actual residence."

**Section 2.** Section 46-23-502, MCA, is amended to read:

**"46-23-502. Definitions.** As used in Title 45, chapter 5, part 3 and parts 5 through 7, 46-18-255, and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Foreign offenses" means a conviction for a sexual offense involving any of the conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, or New Zealand, or under the laws of any foreign country when the United States department of state, in its country reports on human rights practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction was obtained.

(3) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(4) "Municipality" means an entity that has incorporated as a city or town.

(5) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(6) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(7) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(8) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(9) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators.

(10) (a) "Sexual offense" means any violation, attempt, solicitation, or conspiracy to commit a violation, or flight after the attempt or commission of the following:

(i) 45-5-301, unlawful restraint, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(ii) 45-5-302, kidnapping, if the victim is less than 18 years of age and the offender is not a parent

1 of the victim;

2 (iii) 45-5-303, aggravated kidnapping, if the victim is less than 18 years of age and the offender is  
3 not a parent of the victim;

4 (iv) 45-5-502(2)(c), (3), and (4), sexual assault;

5 (v) 45-5-503, sexual intercourse without consent;

6 (vi) 45-5-504(2)(c) ~~and (3)~~, and (4), indecent exposure;

7 (vii) 45-5-507, incest, if the victim is less than 18 years of age and the offender is 3 or more years  
8 older than the victim, or if the victim is 12 years of age or younger and the offender is 18 years of age or older  
9 at the time of the offense;

10 (viii) 45-5-508, aggravated sexual intercourse without consent;

11 (ix) 45-5-601(2)(b) and (3), prostitution;

12 (x) 45-5-622(2)(b)(ii), endangering the welfare of children;

13 (xi) 45-5-625, sexual abuse of children;

14 (xii) 45-5-627(1)(a), ritual abuse of a minor;

15 (xiii) 45-5-705, patronizing a victim of sex trafficking;

16 (xiv) 45-5-706, aggravated sex trafficking;

17 (xv) 45-5-711, child sex trafficking;

18 (xvi) 45-8-218, deviate sexual conduct; or

19 (xvii) any violation of a law of another state, a tribal government, the federal government, or the  
20 military or a foreign entity that is reasonably equivalent to a violation listed in subsections (10)(a)(i) through  
21 (10)(a)(xvi) or for which the offender was required to register as a sexual offender after an adjudication or  
22 conviction.

23 (b) The term does not include the exceptions provided for in 45-5-501, 45-5-502, and 45-5-503.

24 (11) "Sexual or violent offender" means a person who has been convicted of or, in youth court,  
25 found to have committed or been adjudicated for a sexual or violent offense.

26 (12) "Sexually violent predator" means a person who:

27 (a) has been convicted of or, in youth court, found to have committed or been adjudicated for a  
28 sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely

1 to engage in predatory sexual offenses; or

2 (b) has been convicted of a sexual offense against a victim 12 years of age or younger and the  
3 offender is 18 years of age or older.

4 (13) "Transient" means an offender who has no residence.

5 (14) "Violent offense" means:

6 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of:

7 (i) 45-5-102, deliberate homicide;

8 (ii) 45-5-103, mitigated deliberate homicide;

9 (iii) 45-5-202, aggravated assault;

10 (iv) 45-5-206 (third or subsequent offense), partner or family member assault;

11 (v) 45-5-210(1)(b), (1)(c), or (1)(d), assault on a peace officer or judicial officer;

12 (vi) 45-5-212, assault on a minor;

13 (vii) 45-5-213, assault with a weapon;

14 (viii) 45-5-215, strangulation of a partner or family member;

15 (ix) 45-5-302 (if the victim is not a minor), kidnapping;

16 (x) 45-5-303 (if the victim is not a minor), aggravated kidnapping;

17 (xi) 45-5-401, robbery;

18 (xii) 45-6-103, arson; or

19 (xiii) 45-9-132, operation of unlawful clandestine laboratory; or

20 (b) any violation of a law of another state, a tribal government, the federal government, or the  
21 military or a foreign entity reasonably equivalent to a violation listed in subsection (14)(a)."

22  
23 NEW SECTION. Section 3. Severability. If a part of [this act] is invalid, all valid parts that are  
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
25 the part remains in effect in all valid applications that are severable from the invalid applications.

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27 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2025.

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