

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

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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.