

## HOUSE BILL NO. 52

INTRODUCED BY B. NEWMAN

A BILL FOR AN ACT ENTITLED: "AN ACT CRIMINALIZING MALICIOUS INTIMIDATION OR HARASSMENT BASED ON GENDER, DISABILITY, OR SEXUAL ORIENTATION; PROVIDING AN ENHANCED PENALTY FOR OFFENSES COMMITTED BECAUSE OF THE VICTIM'S GENDER, DISABILITY, OR SEXUAL ORIENTATION; AND AMENDING SECTIONS 45-5-221 AND 45-5-222, MCA."

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, gender, disability, 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~~ that 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, gender, disability, sexual orientation, or involvement in civil rights or human rights activities. (1)** A person who has pleaded guilty or nolo contendere to or who has been found guilty of any offense, except malicious intimidation or harassment, that was committed because of the victim's

1 race, creed, religion, color, national origin, gender, disability, sexual orientation, or involvement in civil rights or  
2 human rights activities or that involved damage, destruction, or attempted destruction of a building regularly used  
3 for religious worship, in addition to the punishment provided for commission of the offense, may, if the provisions  
4 of 46-1-401 have been complied with, 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) must run consecutively to the sentence, except  
7 as provided in 46-18-222."

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