

January 20, 2005
1380 Wolverine Lane
Bozeman, Montana 59718
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Exhibit No. 4
Date 1-21-05
Bill No. SB 202

Testimony Opposed to Senate Bill No. 202

I am opposed to adding "sexual orientation" to the malicious intimidation or harassment law because "sexual orientation" has not been defined in the Montana code and historically "sexual orientation" added to hate crime or intimidation laws has been used to remove free speech rights from critics of homosexuality.

Currently, five residents of Philadelphia are facing prosecution under an intimidation law even though they did nothing more than peacefully meet during a gay pride Outfest to hand out literature and read scriptures. Each could spend 47 years in prison and be fined \$90,000. The arrests were planned and directed by U.S. Department of Justice attorneys beforehand, who colluded with the Outfest organizers and Philadelphia police at least four times before the event on how to "handle" the Christians. Clearly, the intimidation law was used to silence and punish critics even though no property damage occurred and no physical harm was done or even threatened. Voting to place sexual orientation in Montana's intimidation bill will encourage the same kind of misuse of this law in Montana.

Montana's intimidation bill is especially at risk for this kind of misuse because it lists "reasonable apprehension of bodily injury" as a qualifying condition to invoke penalties. This definition is subjective with wide latitude for interpretation, being based on the litigant's own testimony.

Montanans need to be free to disagree.
Protect open debate and free speech, please vote no on SB202.

Esther Fishbaugh