SENATE JUDICIARY
EXHIBIT NO. 7
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BILL NO. SB 107

Dallas Erickson
Testimony
Senate Bill 107
Senate Judiciary Committee
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Mr. Chair and Members of the Committee,

We rise to ask you to table this bill. We recognize that the Montana Supreme Court has ruled part of the Deviate Sexual Conduct law unconstitutional but we consider the Supreme Court's ruling as a usurpation of the legislature's right and duty to address the people's will.

Our organization filed an Amicus Curiae or Friend of the Court brief in the Gryczan case and I would like to read to you a short quote from that brief that was filed by our attorney Stuart Bradshaw.

"The statute under attack is one of the oldest criminal statutes in Montana law, deeply rooted in the values and societal attitudes of the citizens of this State. These values and attitudes are reflected in the legislators elected to represent the citizens of this State and in the laws which they enact or perpetuate. The issue before the Court, the constitutionality of §45-5-505, MCA, is a significant political, moral and public policy issue."

In the past hearings, in this attempt to do away with the Deviate Sexual Conduct law, the Proponents, almost without exception, claim that the Montana Supreme Court in Gryczan threw out the law as found in MCA 45-5-505. That is not true in fact the court indicated that some of the law should stay intact as they wrote just before signing the opinion:

". . . nothing in this opinion should be construed to countenance nonconsensual sexual activity, sexual contact with a minor, or any form of sexual conduct for commercial purposes . . ." in referring to the Deviate Sexual Conduct statute.

They wrote that such activity, deviate sexual conduct with a minor, in a rape or in certain commercial purposes should remain and not be countenanced or allowed under the law.

Montana adopted a sodomy law with the common-law definition as soon as the territorial legislature met in 1865. It has been on the books ever since. In order to get acceptance of their deviate lifestyle the homosexuals and their supporters had to get rid of all the laws against deviate sexual conduct or sodomy all over America. Virtually every state had a law against sodomy. Many applied to sodomy between a husband and wife.

Although the homosexuals and their supporters deny that they have an agenda, unless you were living in a hole for the past two decades you can't help but see it and understand, that in order for them to have acceptance of their deviate sexual conduct they have to get rid of this law.

The people did not vote out these laws but by the tyranny of their power the courts throughout America ruled that the laws were unconstitutional. It is interesting that our Founders had such laws in the colonies but as we slouch toward Gomorrah the term deviate sexual conduct has become a problem for the homosexuals as they work to get their lifestyle choices accepted by all of us.

One reason they have to do that is so they can teach their type of "sexuality" to our youth in the schools. If it is still illegal and referred to as "Deviate Sexual Conduct" it is harder for them to teach such conduct. Conduct that they claim to be as normal as the sexual conduct we were created to be involved in.

As a law enforcement officer in Lincoln County I arrested several homosexuals who molested young boys in a deviate manner. This law can still be used to charge men or women with deviate sexual conduct between themselves and a minor or in the cases of rape.

The court only addressed consenting adults in *Gryczan*. So the law is still good and should remain on the books. In my opinion, deviate sexual assault on a minor creates additional harm to that child and should be available for an additional charge besides statutory rape.

We ask you to leave the law on the books as a tool for law enforcement officers. The law has been used in recent years since the *Gryczan* case and should be available now and always

There is a bill being written that would simply remove consenting adults from the present Deviate Sexual Conduct law. A very simple and straight forward solution that has been suggested in the past and resisted by the gay and lesbian lobby. It would preserve the advantages of having the law and address the court decision at the same time.

Thank you.

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