

HOUSE BILL NO. 779

INTRODUCED BY R. GREGG, G. OVERSTREET, C. SPRUNGER, S. FITZPATRICK, B. LER, B. MITCHELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DISCRIMINATION LAWS; PROVIDING A WORKING DEFINITION OF "ANTISEMITISM" BY THE INTERNATIONAL HOLOCAUST REMEMBRANCE ALLIANCE; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO CONSIDER THE WORKING DEFINITION WHEN REVIEWING DISCRIMINATION COMPLAINTS; PROVIDING THE WORKING DEFINITION BE CONSIDERED SENTENCE ENHANCEMENT; AMENDING SECTIONS 45-5-222 AND 49-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, antisemitism, including harassment on the basis of actual or perceived Jewish origin, ancestry, ethnicity, identity, affiliation, or faith, remains a persistent, pervasive, and disturbing problem in contemporary American society; and

WHEREAS, Jewish people continue to be a targeted minority in the United States, with data showing that Jews are consistently the most likely of all religious groups to be victimized by incidents of hate and that these incidents are increasing at an alarming rate; and

WHEREAS, state officials and institutions have a responsibility to protect citizens from acts of hate and bigotry motivated by discriminatory animus, including antisemitism, and must be given the tools to do so; and

WHEREAS, valid monitoring, informed analysis and investigation, and effective policymaking all require uniform definitions; and

WHEREAS, while there can be no exhaustive definition of antisemitism as it can take many forms, the International Holocaust Remembrance Alliance (IHRA) Working Definition has been an essential definitional tool used to determine contemporary manifestations of antisemitism and includes useful examples of discriminatory anti-Israel acts that cross the line into antisemitism; and

WHEREAS, the IHRA definition is used by various agencies of the federal government, the majority of the United States, and the 33 governments that are members of IHRA, and it is recommended for use by the European Council and the European Parliament, endorsed by the UN Secretary General and the Secretary General of the Organization of American States, included in policy guides prepared by the Organization for

1 Security and Cooperation in Europe, and formally adopted by a growing number of European nations; and

2 WHEREAS, use of this definition of antisemitism, although it is not to be taken as an exhaustive
3 definition, will increase the awareness and understanding of the parameters of contemporary anti-Jewish
4 discrimination.

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

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8 **NEW SECTION. Section 1. Antisemitism as form of prohibited discrimination -- consideration**

9 **of working definition of international holocaust remembrance alliance.** (1) In reviewing, investigating, or
10 determining whether there has been a violation of any relevant policy, law, or rule prohibiting discriminatory
11 acts, the department shall take into consideration the definition of "antisemitism" as provided in 49-1-102 for the
12 purposes of determining whether the alleged act was motivated by discriminatory antisemitic intent.

13 (2) The legal standard that applies to a claim of discrimination arising under state laws protecting
14 civil rights also applies to a claim of discrimination because of antisemitism.

15 (3) Nothing in this section may be construed to:

16 (a) alter the evidentiary requirements for making a determination that conduct, including
17 harassment, amounts to illegal discrimination or to diminish or infringe on the rights protected under any other
18 provision of law;

19 (b) diminish or infringe on protected rights under the first amendment of the United States
20 constitution or the Montana constitution; or

21 (c) conflict with federal law or state law concerning discrimination.

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23 **Section 2.** Section 45-5-222, MCA, is amended to read:

24 **"45-5-222. Sentence enhancement -- offenses committed because of victim's race, creed,**
25 **religion, color, national origin, or involvement in civil rights or human rights activities.** (1) A person who
26 has pleaded guilty or nolo contendere to or who has been found guilty of any offense, except malicious
27 intimidation or harassment, that was committed because of the victim's race, creed, religion, color, national
28 origin, or involvement in civil rights or human rights activities or that involved damage, destruction, or attempted

1 destruction of a building regularly used for religious worship, in addition to the punishment provided for
2 commission of the offense, may, if the provisions of 46-1-401 have been complied with, be sentenced to a term
3 of imprisonment of not less than 2 years or more than 10 years, except as provided in 46-18-222.

4 (2) An additional sentence prescribed by subsection (1) must run consecutively to the sentence,
5 except as provided in 46-18-222.

6 (3) "Antisemitism" is regarded as a form of discrimination on the basis of race, religion, or national
7 origin and has the same meaning as provided for in the working definition of antisemitism adopted by the
8 international holocaust remembrance alliance on May 26, 2016, including the "contemporary examples of
9 antisemitism", and incorporated by reference in Executive Order No. 13899, 84 F.R. 68779, December 11,
10 2019. When assessing unlawful acts that may have been motivated by antisemitism on the basis of race,
11 religion, or national origin, the relevant authority shall take into account this definition of antisemitism."

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13 **Section 3.** Section 49-1-102, MCA, is amended to read:

14 **"49-1-102. Freedom from discrimination.** (1) The right to be free from discrimination because of
15 race, creed, religion, color, sex, as defined in 1-1-201, physical or mental disability, age, or national origin is
16 recognized as and declared to be a civil right. This right must include but not be limited to:

17 (a) the right to obtain and hold employment without discrimination; and

18 (b) the right to the full enjoyment of any of the accommodation facilities or privileges of any place
19 of public resort, accommodation, assemblage, or amusement.

20 (2) "Antisemitism" is regarded as a form of discrimination on the basis of race, religion, or national
21 origin and has the same meaning as provided for in the working definition of antisemitism adopted by the
22 international holocaust remembrance alliance on May 26, 2016, including the "contemporary examples of
23 antisemitism", and incorporated by reference in Executive Order No. 13899, 84 F.R. 68779 December 11,
24 2019. When assessing unlawful acts that may have been motivated by antisemitism on the basis of race,
25 religion, or national origin, the relevant authority shall take into account this definition of antisemitism.

26 (2)(3) This section does not prevent the nonarbitrary consideration in adoption proceedings of
27 relevant information concerning the factors listed in subsection (1). Consideration of religious factors by a
28 licensed child-placing agency that is affiliated with a particular religious faith is not arbitrary consideration of

1 religion within the meaning of this section."

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3 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
4 integral part of Title 49, chapter 2, part 3, and the provisions of Title 49, chapter 2, part 3, apply to [section 1].

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6 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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