

## 1 HOUSE BILL NO. 482

2 INTRODUCED BY J. ECK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INCEST LAWS; PROVIDING THAT CONSENT IS  
5 INEFFECTIVE IF THE STEPSON OR STEPDAUGHTER WHO IS THE VICTIM IS LESS THAN 18 YEARS OF  
6 AGE AND THE STEPPARENT IS 4 OR MORE YEARS OLDER; PROVIDING THAT A PERSON WHO IS LESS  
7 THAN 18 YEARS OF AGE IS NOT LEGALLY RESPONSIBLE OR LEGALLY ACCOUNTABLE FOR THE  
8 OFFENSE OF INCEST; AND AMENDING SECTION 45-5-507, MCA; AND PROVIDING AN APPLICABILITY  
9 DATE."

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

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13 **Section 1.** Section 45-5-507, MCA, is amended to read:

14 **"45-5-507. Incest.** (1) A person commits the offense of incest if the person knowingly marries, cohabits  
15 with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant,  
16 a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this  
17 subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption,  
18 and relationships involving a stepson or stepdaughter.

19 (2) (a) ~~Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but~~  
20 ~~consent is ineffective if the victim stepson or stepdaughter is less than 18 years old of age and the stepparent~~  
21 ~~is 4 or more years older than the stepson or stepdaughter.~~

22 (b) A person who is less than 18 years of age is not legally responsible or legally accountable for the  
23 offense of incest and is considered a victim of the offense of incest if the other person in the incestuous  
24 relationship is 4 or more years older than the victim.

25 (3) Except as provided in subsections (4) and (5), a person convicted of incest shall be punished by life  
26 imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount  
27 not to exceed \$50,000.

28 (4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if  
29 the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished  
30 by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100

1 years and may be fined not more than \$50,000.

2 (5) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the  
3 time of the offense, the offender:

4 (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not  
5 suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this  
6 subsection (5)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender  
7 is not eligible for parole.

8 (ii) may be fined an amount not to exceed \$50,000; and

9 (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and  
10 behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

11 (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is  
12 subject to supervision by the department of corrections for the remainder of the offender's life and shall participate  
13 in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

14 (6) In addition to any sentence imposed under subsection (3), (4), or (5), after determining the financial  
15 resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the  
16 offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount,  
17 method, and time of payment must be determined in the same manner as provided for in 46-18-244."

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19 **NEW SECTION. Section 2. Applicability.** [This act] applies to offenses committed on or after [the  
20 effective date of this act].

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