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HOUSE BILL 172

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

PATSY G. TRUJILLO

AN ACT

RELATING TO CRIMINAL LAW; INCREASING THE CRIMINAL PENALTIES FOR  
INDECENT EXPOSURE; CREATING A NEW CRIMINAL OFFENSE KNOWN AS  
AGGRAVATED INDECENT EXPOSURE; AMENDING AND ENACTING SECTIONS OF  
THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-9-14 NMSA 1978 (being Laws 1975,  
Chapter 109, Section 5) is amended to read:

"30-9-14. INDECENT EXPOSURE. --

A. Indecent exposure consists of a person knowingly  
and intentionally exposing his primary genital area to public  
view.

B. As used in this section, "primary genital area"  
means the mons pubis, penis, testicles, mons veneris, vulva or  
vagina.

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1           ~~[Whoever commits indecent exposure before a child under the~~  
2 ~~age of thirteen is guilty of a misdemeanor.]~~

3           ~~Whoever commits indecent exposure before a person thirteen~~  
4 ~~years of age or older is guilty of a petty misdemeanor.]~~

5           C. Whoever commits indecent exposure before a child  
6 under the age of eighteen is guilty of a fourth degree felony.

7           D. Whoever commits indecent exposure before a person  
8 eighteen years of age or older is guilty of a misdemeanor. Upon  
9 a second or subsequent conviction for committing indecent  
10 exposure before a person eighteen years of age or older, the  
11 offender is guilty of a fourth degree felony."

12           Section 2. A new section of the Criminal Code is enacted  
13 to read:

14           "[NEW MATERIAL] AGGRAVATED INDECENT EXPOSURE. --

15           A. Aggravated indecent exposure consists of a person  
16 knowingly and intentionally exposing his primary genital area to  
17 public view while committing one or more of the following  
18 criminal offenses:

19                       (1) assault, as provided in Section 30-3-1 NMSA  
20 1978;

21                       (2) aggravated assault, as provided in Section  
22 30-3-2 NMSA 1978;

23                       (3) assault with intent to commit a violent  
24 felony, as provided in Section 30-3-3 NMSA 1978;

25                       (4) battery, as provided in Section 30-3-4 NMSA

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1 1978; or

2 (5) aggravated battery, as provided in Section  
3 30-3-5 NMSA 1978.

4 B. As used in this section, "primary genital area"  
5 means the mons pubis, penis, testicles, mons veneris, vulva or  
6 vagina.

7 C. Whoever commits aggravated indecent exposure  
8 before a child under the age of eighteen is guilty of a third  
9 degree felony.

10 D. Whoever commits aggravated indecent exposure  
11 before a person eighteen years of age or older is guilty of a  
12 fourth degree felony. "

13 Section 3. EFFECTIVE DATE. -- The effective date of the  
14 provisions of this act is July 1, 1996.

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**State of New Mexico**  
**House of Representatives**

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**FORTY- SECOND LEGISLATURE**  
**SECOND SESSION, 1996**

February 5, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 172

has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that

HOUSE JUDICIARY COMMITTEE SUBSTITUTE  
FOR HOUSE BILL 172

DO PASS, and thence referred to the APPROPRIATIONS  
AND FINANCE COMMITTEE.

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**State of New Mexico  
House of Representatives**

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 5, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 172

has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that

HOUSE JUDICIARY COMMITTEE SUBSTITUTE  
FOR HOUSE BILL 172

DO PASS, and thence referred to the APPROPRIATIONS  
AND FINANCE COMMITTEE.

Respectfully submitted,

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Cisco McSorley, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Sanchez, R. G.

Absent: Alwin, Baca, Larranaga

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 172

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
1996

AN ACT

RELATING TO CRIMINAL LAW; INCREASING THE CRIMINAL PENALTY FOR  
INDECENT EXPOSURE; CREATING A NEW CRIMINAL OFFENSE KNOWN AS  
AGGRAVATED INDECENT EXPOSURE; AMENDING AND ENACTING SECTIONS OF  
THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-9-14 NMSA 1978 (being Laws 1975,  
Chapter 109, Section 5) is amended to read:

"30-9-14. INDECENT EXPOSURE. --

A. Indecent exposure consists of a person knowingly  
and intentionally exposing his primary genital area to public  
view.

B. As used in this section, "primary genital area"  
means the mons pubis, penis, testicles, mons veneris, vulva or  
vagina.

Whoever commits indecent exposure ~~[before a child under the~~

~~age of thirteen~~ is guilty of a misdemeanor.

~~[Whoever commits indecent exposure before a person thirteen years of age or older is guilty of a petty misdemeanor.]"~~

1 Section 2. A new section of the Criminal Code is enacted  
2 to read:

3 "[NEW MATERIAL] AGGRAVATED INDECENT EXPOSURE. --

4 A. Aggravated indecent exposure consists of a person  
5 knowingly and intentionally exposing his primary genital area to  
6 public view, with the intent to shock, offend, threaten or  
7 intimidate another person, while committing one or more of the  
8 following acts or criminal offenses:

9 (1) exposure to a child less than eighteen  
10 years of age;

11 (2) assault, as provided in Section 30-3-1 NMSA  
12 1978;

13 (3) aggravated assault, as provided in Section  
14 30-3-2 NMSA 1978;

15 (4) assault with intent to commit a violent  
16 felony, as provided in Section 30-3-3 NMSA 1978;

17 (5) battery, as provided in Section 30-3-4 NMSA  
18 1978;

19 (6) aggravated battery, as provided in Section  
20 30-3-5 NMSA 1978;

21 (7) criminal sexual penetration, as provided in  
22 Section 30-9-11 NMSA 1978; or

23 (8) abuse of a child, as provided in Section  
24 30-6-1 NMSA 1978.

25 B. As used in this section, "primary genital area"

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1 means the mons pubis, penis, testicles, mons veneris, vulva or  
2 vagina.

3 C. Whoever commits aggravated indecent exposure is  
4 guilty of a fourth degree felony."

5 Section 3. EFFECTIVE DATE. --The effective date of the  
6 provisions of this act is July 1, 1996.

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**State of New Mexico  
House of Representatives**

FORTY- SECOND LEGISLATURE  
SECOND SESSION, 1996

February 7, 1996

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom  
has been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE  
FOR HOUSE BILL 172

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Max Coll, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

HJC/HB 172

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Casey, Gentry, Martinez, Picraux, Saavedra, Watchman

Absent: None

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2 SECOND SESSI ON, 1996  
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4 February 12, 1996  
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6 Mr. President:  
7

8 Your JUDI CIARY COMMI TTEE, to whom has been referred

9 HOUSE JUDI CIARY COMMI TTEE SUBSTITU TE FOR  
10 HOUSE BILL 172  
11

12 has had it under consideration and reports same with recommendation  
13 that it DO PASS, amended as follows:  
14

15 1. On page 1, line 13, after the semicolon insert "REQUIRING AN  
16 OFFENDER TO PARTICIPATE IN AND COMPLETE A COUNSELING PROGRAM".  
17

18 2. On page 1, strike lines 17 through 25 in their entirety,  
19 strike page 2 in its entirety, and on page 3, strike lines 1 through  
20 8 in their entirety and insert in lieu thereof the following  
21 sections:  
22

23 "Section 1. Section 30-9-14 NMSA 1978 (being Laws 1975, Chapter  
24 109, Section 5) is amended to read:  
25

"30-9-14. INDECENT EXPOSURE. - -

A. Indecent exposure consists of a person knowingly and

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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intentionally exposing his primary genital area to public view.

B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.

C. Whoever commits indecent exposure [before a child under the age of thirteen] is guilty of a misdemeanor.

~~[Whoever commits indecent exposure before a person thirteen years of age or older is guilty of a petty misdemeanor.]~~

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing indecent exposure to participate in and complete a program of professional counseling at his own expense. "

Section 2. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] AGGRAVATED INDECENT EXPOSURE. --

A. Aggravated indecent exposure consists of a person

Underscored material = new  
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**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

SJC/HJC/HB 172

Page 15

knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses:

- (1) exposure to a child less than eighteen years of age;
- (2) assault, as provided in Section 30-3-1 NMSA 1978;
- (3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;
- (4) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;
- (5) battery, as provided in Section 30-3-4 NMSA 1978;
- (6) aggravated battery, as provided in Section 30-3-5 NMSA 1978;
- (7) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
- (8) abuse of a child, as provided in Section 30-6-1 NMSA 1978.

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.

C. Whoever commits aggravated indecent exposure is guilty of a fourth degree felony.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing aggravated indecent exposure to participate in and complete a program of professional counseling at his own expense."

and further recommends that the referral to the FINANCE COMMITTEE be withdrawn.

Respectfully submitted,

\_\_\_\_\_  
Janice D. Paster, Chairman

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**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

SJC/HJC/HB 172

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: None

Absent: Carraro, Sanchez, Stefani cs, Vernon

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