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SB35-19/20: Resolution Amending Expectations for Student Group Leaders

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1 **The Associated Students of the University of Montana**
2 **Resolution Amending Expectations for Student Group Leaders**
3 **November 8, 2019**
4 **SB35-19/20**

5 **Authored by: Cierra Anderson, ASUM Senator;**
6

7 Whereas, The Associated Students of the University of Montana (ASUM) is the official student
8 government for the University of Montana;

9
10 Whereas, ASUM recently passed Senate Bill 16 – 19/20 (SB16), which established expectations for
11 leaders of student groups;

12
13 Whereas, SB16 amended Article V, Section 4, Paragraph 1 of the ASUM Bylaws to read:

14
15 I. *Officers of organizations seeking ASUM recognition must be University of Montana*
16 *Students paying the ASUM activity fee. This requirement can be waived by*
17 *recommendation from the Board on Member Organizations, and a 2/3 confirmation from*
18 *the ASUM Senate. Student Group leaders may be removed from their position for*
19 *committing a felony upon conviction in open court while enrolled at the University as a*
20 *student or for committing any larceny against the University, ASUM, or any subsidiary*
21 *thereof.”*
22

23 Whereas, Article IV of the ASUM Bylaws outlines impeachable offenses for Senators and includes
24 misdemeanor offenses;

25
26 Whereas, SB16 omitted misdemeanors as a reason for removal for student group leaders;

27
28 Whereas, There are multiple jurisdictions with their own criminal statutes and a felony conviction in one
29 jurisdiction may not be a felony in another jurisdiction;

30
31 Whereas, Some jurisdictions are limited as to the penalties they may impose for offenses and most of their
32 convictions may be considered misdemeanors¹;

33
34 Whereas, There are a number of misdemeanors that, if a student group leader has been convicted of,
35 should be a basis for removal from their position;

36
37 Whereas, The Montana Code Annotated (MCA) defines “misdemeanors” as offenses for which the
38 sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for
39 which the sentence imposed is imprisonment in a state prison for a term of one year or less²;

40
41 Whereas, A person commits the offense of assault if the person (a) purposely or knowingly causes bodily
42 injury to another; (b) negligently causes bodily injury to another with a weapon; (c) purposely or
43 knowingly causes reasonable apprehension of bodily injury in another³;

44
45 Whereas, Assault is a misdemeanor in the State of Montana because (2) a person convicted of assault
46 shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months,
47 or both³;

¹ 25 U.S.C.S. § 1302(a)(7)(C)

² Mont. Code Ann. § 45-2-101

³ Mont. Code Ann. § 45-5-201

48
49 Whereas, A person commits the offense of negligent vehicle assault if the person operates a vehicle other
50 than a bicycle while under the influence of alcohol, a dangerous drug, any other drug, or any combination
51 of the three, and who causes bodily injury to another⁴;

52
53 Whereas, Negligent vehicle assault is a misdemeanor in the State of Montana because (2) a person
54 convicted of the offense of negligent vehicular assault shall be fined an amount not to exceed \$1000, or
55 incarcerated in a county jail for a term not to exceed one year, or both⁴;

56
57 Whereas, A person commits the offense of partner or family member assault if the person (a) purposely or
58 knowingly causes bodily injury to a partner or family member; (b) negligently causes bodily injury to a
59 partner or family member with a weapon; or (c) purposely or knowingly causes reasonable apprehension
60 of bodily injury in a partner or family member⁵;

61
62 Whereas, Partner or family member assault is a misdemeanor in the State of Montana until the third
63 conviction because (3) (a)(i) an offender convicted of partner or family assault shall be fined an amount
64 not less than \$100 or more than \$1000 and be imprisoned in the county jail for a term not to exceed 1 year
65 or not less than 24 hours for a first offense and (3)(a)(ii) an offender convicted of a second offense under
66 this section shall be fined not less than \$300 or more than \$1000 and be imprisoned in the county jail not
67 less than 72 hours or more than 1 year⁵;

68
69 Whereas, A person commits the offense of a violation of a no contact order if the person, with knowledge
70 of the order, purposely or knowingly violates any provision of any order issued under 45-5-209; (b) each
71 contact or attempt to make this contact with each protected person, directly or indirectly, is a separate
72 offense⁶;

73
74 Whereas, Violations of no contact orders are misdemeanors in the State of Montana because (c) an
75 offender convicted of violation of a no contact order shall be fined an amount not to exceed \$500 or be
76 imprisoned in the county jail for a term not to exceed 6 months, or both⁷;

77
78 Whereas, A person commits the offense of assault upon a sports official if, while the official is acting as
79 an official at an athletic contest in any sport at any level of amateur or professional competition, the
80 person (a) purposely or knowingly causes bodily injury to the sports official; (b) negligently causes bodily
81 injury to the sports official with a weapon; (c) purposely or knowingly makes physical contact of an
82 insulting or provoking nature with the sports official; or (d) purposely or knowingly causes reasonable
83 apprehension of bodily injury in the sports official⁷;

84
85 Whereas, Assault upon a sports official is a misdemeanor in the State of Montana because (2) a person
86 convicted of assault upon a sports official shall be fined an amount not to exceed \$1000 or be imprisoned
87 in the county jail for any term not to exceed 6 months, or both⁸;

88
89 Whereas, A person commits the offense of stalking if the person (1) purposely or knowingly engages in a
90 course of conduct directed at a specific person and knows or should know that the course of conduct
91 would cause a reasonable person to: (a) fear for the person's own safety or the safety of a third person; or
92 (b) suffer other substantial emotional distress⁸;

⁴ Mont. Code Ann. § 45-5-205

⁵ Mont. Code Ann. § 45-5-206

⁶ Mont. Code Ann. § 45-5-209(8)

⁷ Mont. Code Ann. § 45-5-211

⁸ Mont. Code Ann. § 45-5-220

93

94 Whereas, Stalking is a misdemeanor in the State of Montana because (4)(a) except as provided in
95 subsection (4)(b)⁹, for the first offense, a person convicted of stalking shall be imprisoned in the county
96 jail for a term not to exceed 1 year or fined an amount not to exceed \$1000, or both⁹;

97

98 Whereas, A person commits the offense of surreptitious¹⁰ visual observation or recordation in a place of
99 residence if the person (1) purposely or knowingly hides, waits, or otherwise loiters in person or by means
100 of a remote electronic device within or in the vicinity of a private dwelling house, apartment, or other
101 place of residence for the purpose of: (a) watching, gazing at, or looking upon any occupant in the
102 residence in a surreptitious¹¹ manner without the occupant's knowledge; or (b) by means of an electronic
103 device, surreptitiously¹¹ observing or recording the visual image of any occupant in the residence without
104 the occupant's knowledge¹¹;

105

106 Whereas, A person commits the offense of surreptitious¹¹ visual observation or recordation in public if the
107 person (2) purposely or knowingly observes or records a visual image of the sexual or intimate parts of
108 another person in a public place without the other person's knowledge when the victim has a reasonable
109 expectation of privacy¹²;

110

111 Whereas, Surreptitious visual observation or recordation in a place of residence or public place is a
112 misdemeanor in the State of Montana because (4) a person convicted of an offense under subsection (1)
113 or (2) shall be fined an amount not to exceed \$500 or be incarcerated in the county jail for a term not to
114 exceed 6 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed
115 \$1000 or be incarcerated for a term not to exceed 1 year or both¹²;

116

117 Whereas, A person commits the offense of unlawful restraint if the person (1) knowingly or purposely
118 ~~and without lawful authority restrains another so as to interfere substantially with the other person's~~
119 ~~liberty~~¹²;

120

121 Whereas, Unlawful restraint is a misdemeanor in the State of Montana because (2) a person convicted of
122 the offense of unlawful restraint shall be fined not to exceed \$500 or be imprisoned in the county jail for
123 any term not to exceed 6 months, or both¹³;

124

125 Whereas, A person commits the offense of sexual assault if the person (1) knowingly subjects another
126 person to any sexual contact without consent¹³;

127

128 Whereas, Sexual assault is a misdemeanor in the State of Montana because (2)(a) on a first conviction of
129 sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county
130 jail for a term not to exceed 6 months, or both and (2)(b) on a second conviction for sexual assault, the
131 offender shall be fined an amount not to exceed \$1000 or be imprisoned in the county jail for a term not
132 to exceed 1 year, or both¹³;

133

⁹ Mont. Code Ann. § 45-5-220(4)(b) states "For a second or subsequent offense within 20 years or for a first offense when the offender violated any order of protection, when the offender used force or a weapon or threatened to use force or a weapon, or when the victim is a minor and the offender is at least 5 years older than the victim, the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both."

¹⁰ Merriam-Webster defines surreptitious as "done, made, or acquired by stealth"

¹¹ Mont. Code Ann. § 45-223

¹² Mont. Code Ann. §45-5-301

¹³ Mont. Code Ann. §45-5-502

134 Whereas, A person commits the offense of indecent exposure if the person (1) knowingly or purposely
135 exposes the person’s genitals or intimate parts by any means, including electronic communication, under
136 circumstances in which the person knows the conduct is likely to cause affront or alarm in order to: (a)
137 abuse, humiliate, harass, or degrade another; or (b) arouse or gratify the person’s own sexual response or
138 desire or the sexual response or desire of any person¹⁴;

139
140 Whereas, Indecent exposure is a misdemeanor in the State of Montana because (2)(a) a person convicted
141 of the offense of indecent exposure shall be fined an amount not to exceed \$500 or be imprisoned in the
142 county jail for a term of not more than 6 months, or both and (2)(b) on a second conviction, the person
143 shall be fined an amount not to exceed \$1000 or be imprisoned in the county jail for a term of not more
144 than 1 year, or both¹⁵;

145
146 Whereas, A person commits the offense of violation of an order of protection if the person (1) with
147 knowledge of the order, purposely or knowingly violates a provision of any order provided for in 40-4-
148 121¹⁵ or an order of protection under Title 40, chapter 15 [...] ¹⁶;

149
150 Whereas, Violation of a protection order is a misdemeanor in the State of Montana because (3) an
151 offender convicted of violation of an order of protection shall be fined not to exceed \$500 or be
152 imprisoned in the county jail for a term not to exceed 6 months, or both, for a first offense. Upon
153 conviction of a second offense, an offender shall be fined not less than \$200 and not more than \$500 and
154 be imprisoned in county jail not less than 24 hours and not more than 6 months. Upon conviction for a
155 third or subsequent offense, an offender shall be fined not less than \$500 and not more than \$2000 and be
156 imprisoned in the county jail or state prison for a term not less than 10 days and not more than 2 years¹⁶;

157
158 Whereas, The above-mentioned offenses are all found in Title 45, chapter 5 of the Montana Code
159 Annotated, which are Offenses Against the Person;

160
161 Whereas, The above-mentioned offenses wouldn’t be considered a reason to disqualify a student group
162 leader from their position;

163
164 Whereas, The above-mentioned offenses would be considered a reason to impeach an ASUM Senator
165 from their position;

166
167 Whereas, The bill states that one of its purposes is to hold student group leaders to the “same standard as
168 ASUM senators with regards to criminal misconduct”¹⁷;

169
170 Whereas, Omitting the offenses does not hold a student group leader to the “same standard as ASUM
171 senators with regards to criminal misconduct”¹⁷;

172
173 Therefore, Let It Be Resolved, That Article V, Section 4, Paragraph 1 of the ASUM Bylaws be amended
174 to read the following:

175
176 **I. For the purposes of this section, the definitions in Article IV of these bylaws shall be used.**

¹⁴ Mont. Code Ann. §45-5-504

¹⁵ Mont. Code Ann. §40-4-121 states the following orders: Temporary Order For Maintenance or Support, Temporary Injunction, or Temporary Restraining Order.

¹⁶ Mont. Code Ann. §45-5-626

¹⁷ SB16 – 19/20: Resolution Regarding Expectations for Student Group Leaders, Lines 49 - 50

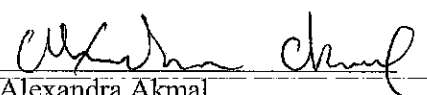
- 177 II. *Officers of organizations seeking ASUM recognition must be University of Montana Students*
178 *paying the ASUM activity fee. Student group leaders may be disqualified from their position*
179 *for the following:*
180 *a. Being convicted of a felony, or its equivalent in another jurisdiction;*
181 *b. Being convicted of a misdemeanor that is sexual in nature, or its equivalent in another*
182 *jurisdiction;*
183 *c. Being convicted of a misdemeanor that is violent in nature, or its equivalent in another*
184 *jurisdiction;*
185 *d. Committing larceny against the University, ASUM, or any subsidiary thereof.;*
186
187

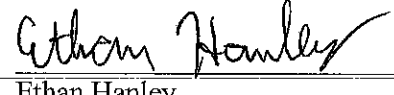
188 Therefore, Let It Be Resolved, That the numbering in the ASUM Bylaws be adjusted to reflect these
189 changes;


190
191 Therefore, Let It Be Further Resolved, That this resolution be sent to Gwendolyn Coon, ASUM Office
192 Manager; Marlene Hendrickson, ASUM Accountant; Kenzie Carter, ASUM Student Group Coordinator;
193 and Lou Villemez, ASUM Legal Director.
194

195
196 Passed by Committee: November 17th, 2019

197
198 Passed by ASUM Senate: December 4th, 2019

199
200
201 
202 Alexandra Akmal,
203 Chair of the Relations and Affairs Committee
204

200
201 
202 Ethan Hanley,
203 Chair of the Senate

205
206 
207 James Flanagan,
208 Chair of the Board on Members Organization
209

210
211 Resolution Passed: 21 Yes 0 No 3 Abstentions