

## 1 SENATE BILL NO. 395

2 INTRODUCED BY D. EMRICH, W. GALT, J. FULLER, T. MCGILLVRAY, K. BOGNER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LEGAL REQUIREMENT OF STANDING TO  
5 MAINTAIN A LAWSUIT; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."6  
7 WHEREAS, the authority of the courts is limited to "the judicial power"; and8 WHEREAS, the phrase "the judicial power" in the 1972 Montana Constitution was derived from the  
9 1889 Montana Constitution; and10 WHEREAS, the same phrase was derived from Article III, section 1, of the United States Constitution to  
11 describe the sphere of the judiciary; and12 WHEREAS, in *Stewart v. Board of County Commissioners of Big Horn County*, 175 Mont. 197, 573  
13 P.2d 184 (1977), the Montana Supreme Court acknowledged the judicial power is bounded by the definition of  
14 justiciable "cases and controversies," as those terms traditionally have been defined in Anglo-American law;  
15 and16 WHEREAS, in the absence of a statute or constitutional provision to the contrary, one requirement of  
17 justiciability is that the party or parties demanding relief have and maintain legal standing to sue the defending  
18 party or parties on the particular claim; and19 WHEREAS, without specific legal authorization, a court may not decide claims in which the party or  
20 parties demanding relief do not have or maintain standing; and

21 WHEREAS, the three elements of standing are referred to as injury, causation, and redressability; and

22 WHEREAS, despite the Montana Supreme Court's acknowledgment that its authority is limited by  
23 traditional standing rules, it sometimes has disregarded those rules and decided cases it had no authority to  
24 decide, thereby making it desirable to enact and clarify those rules by statute; and25 WHEREAS, the Montana Supreme Court has thereby ventured outside the constitutional scope of "the  
26 judicial power" and infringed the prerogatives of the Legislature, the Executive Branch, and the reserved rights  
27 of the people.

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

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3 NEW SECTION. Section 1. Judicial power limited to claims involving legal standing. The grant  
4 in the Montana constitution to the judiciary of "the judicial power" includes only the power to adjudicate claims in  
5 which the claimant or claimants have and maintain legal standing to sue the party or parties against whom relief  
6 is sought as provided in [sections 1 through 5].

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8 NEW SECTION. Section 2. Legal standing defined. Unless otherwise provided by law, a claimant  
9 does not have legal standing to pursue a claim against another party unless:

10 (1) the claimant shows that the claimant has suffered a specific injury as provided in [section 3] or  
11 faces the real and immediate threat of injury as provided in [section 4];

12 (2) the claimant shows the injury or threat of injury in subsection (1) was caused by the party sued  
13 or immediately threatened by the party sued; and

14 (3) the court has power to grant effective relief.  
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16 NEW SECTION. Section 3. Generalized injury not sufficient for legal standing. An alleged injury  
17 claimed must be real, concrete, and individualized to the party seeking relief. The fact that the claimant is a  
18 citizen, resident, or taxpayer who disagrees with or feels aggrieved by a government policy is not sufficient to  
19 create standing.  
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21 NEW SECTION. Section 4. Injury may not be speculative. An alleged threat of harm must be real,  
22 direct, and immediate, and not speculative. Fears and apprehensions not due to a real, direct, and immediate  
23 threat are insufficient to create standing.  
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25 NEW SECTION. Section 5. Injury not created based on public importance. Standing is not  
26 created or maintained solely by a court's conclusion that an issue is one of public importance or is likely to recur  
27 or that a judicial determination will guide public officers in the performance of their duties, or by any combination  
28 of those factors.

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2 NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be

3 codified as a new part in Title 1, and the provisions of Title 1 apply to [sections 1 through 5].

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5 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2025.

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7 NEW SECTION. **Section 8. Applicability.** [This act] applies to legal proceedings instituted on or after

8 [the effective date of this act].

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