

HOUSE BILL NO. 697

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC EMPLOYEE DOES NOT HAVE AN EXPECTATION OF PRIVACY IN ELECTRONIC COMMUNICATIONS SENT OR RECEIVED THROUGH MEANS FOR ELECTRONIC COMMUNICATION PROVIDED AND MANAGED BY THE PUBLIC AGENCY WHERE THE PUBLIC EMPLOYEE WORKS; PROVIDING THAT A PUBLIC AGENCY DOES NOT HAVE TO REVIEW COMMUNICATIONS IN RESPONSE TO A PUBLIC INFORMATION REQUEST FOR PRIVACY IMPLICATIONS IF THE COMMUNICATIONS WERE SENT OR RECEIVED THROUGH MEANS FOR ELECTRONIC COMMUNICATION PROVIDED BY THE PUBLIC AGENCY; AND PROVIDING A DEFINITION."

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

NEW SECTION. Section 1. Public employee electronic communications -- no right to privacy.

(1) A public employee who engages in electronic communications through means provided and managed by a public agency where the public employee works is subject to public records laws, record retention schedules, and, as provided in ethics laws and in policies and procedures adopted by the public agency, requirements for the use of public equipment, facilities, and materials.

(2) A public employee is expected to use the means for electronic communication provided by the public agency, including the public employee's public e-mail account, for work-related purposes. The public employee does not have a reasonable expectation of privacy in electronic communications sent or received through the means for electronic communication provided by the public agency regardless of the content of an electronic communication. By using the means for electronic communication provided by the public agency to send or receive personal communications that are not for work-related purposes, the public employee voluntarily waives any right or expectation of privacy in the personal communications.

(3) Because a public employee has no expectation of privacy in the communications sent or received through means for electronic communication provided by the public agency, agency legal counsel does not have to review communications in response to a public information request for privacy implications.

(4) For the purposes of this section, "communications for work-related purposes" means any communications pertaining to a public employee's work, including but not limited to terms of employment and rights, benefits, and conditions of employment.

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5 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an

6 integral part of Title 2, chapter 6, part 10, and the provisions of Title 2, chapter 6, part 10, apply to [section 1].

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