

SENATE BILL NO. 457

INTRODUCED BY S. VINTON, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ENFORCEMENT OF LEGISLATIVE SUBPOENAS; PROVIDING A PROCEDURE TO POLL THE MEMBERS OF THE HOUSE OF REPRESENTATIVES OR THE SENATE WHEN A WITNESS OR PERSON COMPELLED TO PRODUCE RECORDS FAILS TO COMPLY WITH A LEGISLATIVE SUBPOENA; PROVIDING A MISDEMEANOR PENALTY OF CRIMINAL CONTEMPT OF THE LEGISLATURE; AMENDING SECTIONS 5-5-109 AND 5-11-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Procedure for certifying contempt of legislature.** (1) Either house of the legislature, a committee of either house, a committee established under legislative rules, a statutory committee, or an interim committee with power to issue a subpoena under 5-5-107 or 5-11-107 may commit a witness that fails to appear or a person that fails to produce records for criminal contempt of the legislature by following the procedure in this section.

(2) (a) If the legislature is in session when the failure to abide the subpoena occurs, a simple resolution setting forth the statement of facts in subsection (3) may be introduced in the chamber that issued the subpoena. A majority of members present may adopt the resolution, enter it into the journal, and commit the witness or person for contempt of the legislature.

(b) If the legislature is not in session when the violation occurs, a proclamation of contempt setting forth the statement of facts in subsection (3) may be sent to members of the chamber that issued the subpoena through a legislative poll under the provisions of subsection (4). A majority of the members of the relevant chamber may vote to adopt the proclamation of contempt and commit the witness or person for contempt of the legislature.

(3) (a) The simple resolution in subsection (2)(a) or the proclamation of contempt in subsection (2)(b) may be requested and signed by the speaker of the house for a subpoena in the house, the president of

the senate for a subpoena in the senate, or the presiding officer of a committee provided for in subsection (1).

(b) The simple resolution or proclamation of contempt must include a statement of facts regarding the witness's failure to appear or the person's failure to produce any record pursuant to a subpoena issued under the authority of the legislature or a legislative committee.

(4) (a) A signed proclamation of contempt must be sent to the secretary of state to poll the members of the relevant chamber to determine if a majority of the members of the relevant chamber are in favor of adopting the proclamation of contempt and committing the witness or person for contempt of the legislature. If the proclamation of contempt involves a subpoena that was issued by a committee with voting members of both the house and the senate, the secretary of state shall poll both chambers.

(b) Within 3 calendar days after receiving a proclamation of contempt, the secretary of state shall send a ballot to all legislators of the relevant chamber by using any reasonable and reliable means, including electronic delivery, that contains:

(i) the proclamation of contempt; and

(ii) the date by which legislators shall return the ballot, which may not be more than 10 calendar days after the date the ballots were sent.

(c) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If a majority of the members of the relevant chamber vote to approve the proclamation of contempt, the proclamation is considered adopted by the relevant chamber and the witness or person is in found to be in contempt of the legislature. A ballot that is not returned by the deadline established by the secretary of state is considered a vote against the proclamation of contempt. If the proclamation of contempt is sent to both chambers, a majority of the members of both chambers must vote to approve the proclamation of contempt for it to be adopted.

(5) Upon adoption of a simple resolution in subsection (2)(a) or the proclamation of contempt in subsection (2)(b), the speaker of the house for a subpoena in the house or the president of the senate for a subpoena in the senate shall certify the adopted resolution or proclamation of contempt to the attorney general for criminal contempt of the legislature and prosecution under [section 2].

1

2 **NEW SECTION. Section 2. Criminal contempt of legislature.** (1) Upon adoption of a resolution or
3 proclamation of contempt under [section 1] the witness or person that is determined to be in contempt by the
4 legislature must be charged with criminal contempt of the legislature, and convicted if the witness or person is
5 found to have knowingly engage in the following conduct:

- 6 (a) fails to appear as a witness;
7 (b) appears as a witness but neglects or refuses to testify; or
8 (c) fails to produce any record requested.

9 (2) A prosecution for criminal contempt of the legislature may only commence upon completion of
10 the procedures set forth in [section 1].

11 (3) A person convicted of the offense of criminal contempt of the legislature is guilty of a
12 misdemeanor and on conviction must be fined not to exceed \$1,000, or be imprisoned in the county jail for a
13 term not to exceed 12 months, or both.

14

15 **Section 3.** Section 5-5-109, MCA, is amended to read:

16 **"5-5-109. Contempt -- misdemeanor.** (1) If a witness neglects or refuses to obey a subpoena or,
17 appearing, neglects or refuses to testify before either house of the legislature, a committee of either house, a
18 committee established under legislative rules, or a statutory committee or an interim committee, the senate or
19 house may, ~~by resolution entered on the journal~~, commit the witness for criminal contempt as provided in
20 [section 1].

21 (2) If a person compelled to produce records under 5-5-107(3) neglects or refuses to obey a
22 subpoena before either house of the legislature, a committee of either house, a committee established under
23 legislative rules, or a statutory committee or an interim committee, the senate or house may, ~~by resolution~~
24 ~~entered on the journal~~, commit the witness for contempt as provided in [section 1].

25 (3) A person who neglects or refuses to obey a subpoena under violates subsection (1) or (2) as
26 determined by the senate or the house pursuant to [section 1] is guilty of a misdemeanor punishable criminal
27 contempt of the legislature as provided in 46-18-242 [section 2]."

28

Section 4. Section 5-11-107, MCA, is amended to read:

"5-11-107. Powers relating to hearings. (1) In the discharge of its duties, a committee of either house, a committee established under legislative rules, a statutory committee, or an interim committee may hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in district court.

(2) If a person disobeys a subpoena issued by a committee of either house, a committee established under legislative rules, a statutory committee, or an interim committee or if a witness refuses to testify on any matters regarding which the witness may be lawfully interrogated, the :

(a) the district court of any county shall, on application of the committee, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from a district court or a refusal to testify in the district court; or

(b) the committee may pursue a legislative resolution or proclamation of contempt to commit the witness or person for the crime of criminal contempt of the legislature as provided in [sections 1 and 2]."

NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 5, chapter 5, part 1, and the provisions of Title 5, chapter 5, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 45, chapter 7, part 3, and the provisions of Title 45, chapter 7, part 3, apply to [section 2].

NEW SECTION. Section 6. Effective date. [This act] is effective ~~July 1, 2025~~ on passage and approval.

- END -