

**Amendment - 1st Reading-white - Requested by: George Nikolakakos - (H) State Administration**

- 2025

69th Legislature 2025

Drafter: Rebecca Power,

HB0618.001.002

HOUSE BILL NO. 618

INTRODUCED BY G. NIKOLAKAKOS, S. FITZPATRICK, B. LER, K. ZOLNIKOV, B. MITCHELL

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA INDIVIDUAL FREEDOM ACT; PROHIBITING STATE AND LOCAL GOVERNMENT AGENCIES AND THE DEPARTMENT OF MILITARY AFFAIRS FROM EXPENDING FUNDS FOR MEMBERSHIPS, GOODS, OR SERVICES FROM ORGANIZATIONS THAT DISCRIMINATE AND FROM EXPENDING FUNDS ON DIVERSITY, EQUITY, AND INCLUSION OR ON POLITICAL OR SOCIAL ACTIVISM; ~~PROVIDING LIMITATIONS;~~ PROVIDING INVESTIGATORY AUTHORITY TO THE ATTORNEY GENERAL; ~~PROVIDING RULEMAKING AUTHORITY;~~ ~~PROVIDING FOR PRIVATE RIGHT OF ACTION; PROVIDING PENALTIES;~~ PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~5, 8~~] may be cited as the "Montana Individual Freedom Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through ~~5, 8~~], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Diversity, equity, and inclusion" means any program or initiative of a state or local government agency ~~established for the purpose of that:~~

~~(a) —influencing hiring, employment, or recruitment practices with respect to race, color, ethnicity, national origin, sex, disability, or religion, other than through the use of color-blind and sex-neutral hiring or recruitment processes in accordance with any applicable state and federal antidiscrimination laws;~~

~~(b) —promoting differential treatment of or providing special benefits to individuals on the basis of race, color, ethnicity, national origin, sex, disability, or religion;~~

~~(c) —promoting policies or procedures designed or implemented in reference to race, color, ethnicity,~~

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~~national origin, sex, disability, or religion, other than policies or procedures approved in writing by the attorney general's office for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or~~

~~(d)——conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, national origin, sex, disability, or religion, other than trainings, programs, or activities developed by an attorney and approved in writing by the attorney general's office for the sole purpose of ensuring compliance with any applicable court order or state or federal law.~~

~~(a) directly or indirectly influences hiring, employment, promotion, training, retention, or recruitment practices with respect to race, color, ethnicity, national origin, sex, or religion, other than through the use of neutral race, color, ethnicity, national origin, sex, or religion hiring, employment, promotion, training, retention, or recruitment practices or with the sole purpose of ensuring compliance with any applicable court order or state or federal law; or~~

~~(b) promotes divisive concepts, race or sex stereotyping, or race or sex scapegoating.~~

~~(2) "Divisive concepts" includes but is not limited to the following concepts:~~

~~(a) one race or sex is inherently superior to another race or sex;~~

~~(b) the United States is fundamentally racist or sexist;~~

~~(c) a person, by virtue of the person's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;~~

~~(d) a person should be discriminated against or receive adverse treatment solely or partly because of the person's race or sex;~~

~~(e) members of one race or sex cannot and should not attempt to treat others without respect to race or sex;~~

~~(f) a person's moral character is necessarily determined by the person's race or sex;~~

~~(g) a person, by virtue of the person's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;~~

~~(h) a person should feel discomfort, guilt, anguish, or another form of psychological distress on account of the person's race or sex;~~

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(i) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race; or

(j) any other form of race or sex stereotyping or any other form of race or sex scapegoating.

(3) "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex or to members of a race or sex because of the members' race or sex. The term encompasses any claim that, consciously or unconsciously, and by virtue of a person's race or sex, members of any race are inherently racist or are inherently inclined to oppress others or that members of a sex are inherently sexist or inherently inclined to oppress others.

(4) "Race or sex stereotyping" means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to a person because of the person's race or sex.

~~(2)~~(5) "State or local government agency" means:

(a) any branch, department, office, board, bureau, commission, agency, university unit, college, or other instrumentality of state government; or

(b) a county, city, town, school district, or other unit of local government and any instrumentality of local government.

**NEW SECTION. Section 3. Government agencies -- certain mandatory trainings and employment practices prohibited -- expenditure of funds prohibited.** ~~(1) A state or local government~~

~~agency may not expend any funds, regardless of source, to purchase membership in or goods and services from any organization that discriminates on the basis of race, color, ethnicity, national origin, sex, disability, or religion.~~

~~(2)~~(1) A state or local government agency may not expend any state, local, or federal funds to promote, support, or maintain any programs that advocate for diversity, equity, and inclusion ~~or to promote or engage in political or social activism.~~

(2) A state or local government agency may not compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.

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1

2 NEW SECTION. **Section 4. Department of military affairs or militia -- certain mandatory**

3 **trainings and recruitment practices prohibited -- expenditure of funds prohibited.** ~~(1) The department of~~  
4 ~~military affairs or militia may not expend any funds, regardless of source, to purchase membership in or goods~~  
5 ~~and services from any organization that discriminates on the basis of race, color, ethnicity, national origin, sex,~~  
6 ~~disability, or religion.~~

7 ~~(2)~~ — The department of military affairs or militia may not expend any state, local, or federal funds to  
8 promote, support, or maintain any programs that advocate for diversity, equity, and inclusion ~~or to promote or~~  
9 ~~engage in political or social activism.~~

10

11 NEW SECTION. **Section 5. Limitations.** (1) Nothing in [sections 1 through 8] may be construed to:

12 (a) prohibit a state or local government agency or the department of military affairs or militia from  
13 adopting a policy or program to comply with federal law, with Title 49, chapters 2 and 3, or with applicable court  
14 orders;

15 (b) limit policies or programs designed to advance the educational goals set forth in Article X,  
16 section 1, of the Montana constitution;

17 (c) interfere with the sovereignty of tribal nations, reservations, or education pertaining to the  
18 history of Montana's Indian people; or

19 (d) apply to individuals with disabilities or interfere with the Americans with Disabilities Act.

20 (2) This section does not preclude a state or local government agency or the department of military  
21 affairs or militia from offering training on sexual harassment or from operating an office or employing staff  
22 whose purpose is to ensure compliance with federal law, with Title 49, chapters 2 and 3, or with applicable  
23 court orders.

24 (3) Violations of [sections 1 through 8] may overlap with violations of Title 49, chapter 2, commonly  
25 known as the Montana Human Rights Act. Nothing in [sections 1 through 8] may be construed as limiting the  
26 enforcement of Title 49 by aggrieved parties, the department of labor, or the commission for human rights as  
27 set forth in Title 49.

**Amendment - 1st Reading-white - Requested by: George Nikolakakos - (H) State Administration**

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69th Legislature 2025

Drafter: Rebecca Power,

HB0618.001.002

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2        NEW SECTION. Section 6. Enforcement. (1) The attorney general has the authority to investigate  
3 and prosecute alleged violations of [sections 1 through ~~5~~ 8].

4        ~~(2) — The attorney general may adopt rules to establish procedures for investigating violations of~~  
5 ~~[sections 1 through 5].~~

6        ~~(2) (a) When it appears to the attorney general that a person has engaged in, is engaging in, or is~~  
7 ~~about to engage in any act or practice declared to be unlawful by [sections 1 through 8], or when the attorney~~  
8 ~~general believes it to be in the public interest that an investigation should be made to ascertain whether a~~  
9 ~~person in fact has engaged in, is engaging in, or is about to engage in any act or practice declared to be~~  
10 ~~unlawful by [sections 1 through 8], the attorney general may execute in writing a civil investigative demand and~~  
11 ~~serve any person who is believed to have information, documentary material, or physical evidence relevant to~~  
12 ~~the alleged or suspected violation.~~

13        ~~(b) The demand requires the person to furnish, under oath or otherwise, a written report setting~~  
14 ~~forth the relevant facts and circumstances of which the person has knowledge or to appear and testify, or~~  
15 ~~produce relevant documentary material or physical evidence for examination, at a reasonable time and place as~~  
16 ~~may be stated in the investigative demand.~~

17        ~~(3) (a) To accomplish the objectives and to carry out the duties prescribed by [sections 1 through~~  
18 ~~8], the attorney general, in addition to other powers conferred by [sections 1 through 8], may issue subpoenas~~  
19 ~~to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or~~  
20 ~~inquiry, prescribe forms, and adopt rules as may be necessary that have the force of law.~~

21        ~~(b) The powers conferred by this section may not be used to compel any natural person to furnish~~  
22 ~~testimony or evidence that might tend to incriminate the person or subject the person to a penalty or forfeiture.~~

23        ~~(4) Service of any notice, demand, or subpoena under this section must be made personally within~~  
24 ~~this state, but if this cannot be obtained, substitute service may be made in the manner provided in the Montana~~  
25 ~~Rules of Civil Procedure.~~

26        ~~(5) (a) If a person fails or refuses to file a statement or to report or obey a subpoena or~~  
27 ~~investigative demand issued by the attorney general, the attorney general may, after notice, apply to the district~~

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1 court and, after a hearing, request an order:

2 (i) granting injunctive relief to restrain the person from engaging in any conduct specified in  
3 [sections 1 through 8];

4 (ii) instituting a fine of \$10,000; or

5 (iii) granting other relief as may be required until the person files the statement or report or obeys  
6 the subpoena or investigative demand.

7 (b) Any disobedience of any final order entered under this section by any court must be punished  
8 as a contempt.

9 (6) Whenever the attorney general has reason to believe that a person is using, has used, or is  
10 about to knowingly use any method, act, or practice declared by [sections 1 through 8] to be unlawful and that a  
11 proceeding would be in the public interest, the attorney general may bring an action in the name of the state  
12 against the person to restrain by temporary or permanent injunction or by temporary restraining order the use of  
13 the unlawful act or practice, upon giving appropriate notice to that person.

14  
15 **NEW SECTION. Section 7. Right of private action.** A person who is adversely affected by a  
16 violation of [sections 1 through 8] has a right of private action and may bring an action against a person or entity  
17 that has directly violated [sections 1 through 8] for actual damages or for \$5,000 for each violation.

18  
19 **NEW SECTION. Section 8. Penalties.** (1) (a) In addition to any fine that a person might be subject to  
20 under subsection (2), a person who violates the terms of an injunction or temporary restraining order issued  
21 under [section 6] shall pay to the state a civil fine of not more than \$10,000 for each violation.

22 (b) For the purposes of this section, the district court issuing an injunction or temporary restraining  
23 order retains jurisdiction and the cause must be continued. In those cases, the department of justice, acting in  
24 the name of the state, may petition for recovery of civil penalties.

25 (2) (a) In an action brought under [section 6], if the court finds that a person is willfully using or has  
26 willfully used a method, act, or practice declared unlawful by [sections 1 through 8], the attorney general, upon  
27 petition to the court, may recover on behalf of the state a civil fine of not more than \$10,000 for each violation.

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(b) The fine provided for in subsection (2)(a) is in addition to any liability a person is subject to under subsection (1).

NEW SECTION. **Section 9. Codification instruction.** [Sections 1 through ~~5~~ 8] are intended to be codified as a new chapter in Title 49, and the provisions of Title 49 apply to [sections 1 through ~~5~~ 8].

NEW SECTION. **Section 10. Effective date.** [This act] is effective July 1, 2025.

- END -