

1 _____ BILL NO. _____

2 INTRODUCED BY _____
(Primary Sponsor)

3 BY REQUEST OF THE SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE BURDEN OF PROOF FOR A CLAIM THAT A
6 LEGISLATIVE ACT VIOLATES THE MONTANA CONSTITUTION; AND AMENDING SECTION 3-2-701, MCA."

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

9
10 **Section 1.** Section 3-2-701, MCA, is amended to read:

11 **"3-2-701. Power of court over rules -- deference to legislative acts.** (1) The supreme court of this
12 state ~~shall have the power to~~ may regulate the pleading, practice, and procedure, and the forms ~~thereof of~~
13 these, in civil actions in all courts of this state by rules promulgated by ~~it the supreme court~~ from time to time for
14 the purpose of simplifying judicial proceedings in the courts of Montana and for promoting the speedy
15 determination of litigation ~~upon~~ on its merits. Such rules ~~shall~~ may not abridge, enlarge, or modify the
16 substantive rights of any litigant and ~~shall~~ may not be inconsistent with the constitution of ~~the state of~~ Montana.

17 (2) Except in cases in which the state constitution explicitly mandates a different standard of
18 review, if in a proceeding before a Montana court a party challenges a state legislative act as violative of the
19 state constitution, the supreme court shall uphold the legislative act unless the challenger demonstrates that the
20 legislative act is unconstitutional beyond a reasonable doubt."

21 - END -