

1 SENATE BILL NO. 30

2 INTRODUCED BY T. MCGILLVRAY

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

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE RULE OF NECESSITY MAY NOT BE
6 USED WHEN JUDICIAL OFFICERS WITH LESS OF A CONFLICT ARE AVAILABLE; AND AMENDING
7 SECTION 3-1-611, MCA."

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

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11 **Section 1.** Section 3-1-611, MCA, is amended to read:

12 **"3-1-611. Judicial conflict of interest -- recusal -- definitions.** (1) Any party to a proceeding may
13 request that the judicial officer assigned to the proceeding be recused if an opposing party or lawyer or a
14 lawyer's law firm representing an opposing party meets the criteria in subsection (1)(a) or (1)(b):

15 (a) the judicial officer has received one or more combined contributions totaling the maximum
16 amount allowable under 13-37-216 from a lawyer or party to the proceeding in an election that was held within
17 the previous 6 years; or

18 (b) a lawyer, the lawyer's law firm, or party to the proceeding has made one or more contributions
19 directly or indirectly to a political committee or other entity that engaged in independent expenditures that
20 supported the judicial officer or opposed the judicial officer's opponent in an election that was held within the
21 previous 6 years if the total combined amount of the contributions exceeds \$10,000 for a candidate for a
22 supreme court office or \$5,000 for a candidate for any other judicial office.

23 (2) The moving party shall provide sufficient facts to demonstrate that the criteria in subsection (1)
24 have been met.

25 (3) ~~Upon~~On receipt of the motion and the information required by subsection (2), the judicial
26 officer shall recuse.

27 (4) A judicial officer may not use the legal doctrine of the rule of necessity to avoid recusal
28 because of a conflict of interest in which other judicial officers with less immediate or less significant conflicts

1 are available to serve as substitutes.

2 ~~(4)~~(5) For the purposes of this section:

3 (a) "contribution" has the meaning provided in 13-1-101; and

4 (b) "judicial officer" has the meaning provided in 1-1-202."

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