

SENATE BILL NO. 30

INTRODUCED BY T. MCGILLVRAY

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

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

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

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

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

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

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

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

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

(4) A judicial officer may not use the legal doctrine of the rule of necessity to avoid recusal 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."

5 - END -