

1 government and thus does not belong to any branch of government and is a constitutional fixture itself. It is not
2 to be controlled or abused by any other branch of government, nor is it under the auspice, direction, or control
3 of our Judicial Branch; and

4 WHEREAS, the grand jury is a protector of citizens against arbitrary and oppressive government
5 actions; and

6 WHEREAS, the Montana grand jury is under the control of our Judicial Branch, because only a district
7 court judge can authorize the impaneling of a grand jury, effectively withholding it from "we the people"; and

8 WHEREAS, the grand jury is a body of truth and power inferior to none but the Legislature itself; and

9 WHEREAS, we the people are guaranteed the constitutional right to a grand jury; and

10 WHEREAS, about half of the states require that a grand jury be used before an individual can be
11 charged with a crime; and

12 WHEREAS, six states have a citizens' grand jury by petition: New Mexico, North Dakota, Nevada,
13 Oklahoma, Nebraska, and Kansas.

14

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

16

17 **Section 1.** Article II, section 20, of The Constitution of the State of Montana is amended to read:

18 **"Section 20. Initiation of proceedings.** (1) Criminal offenses within the jurisdiction of any court
19 inferior to the district court shall be prosecuted by complaint. All criminal actions in district court, except those
20 on appeal, shall be prosecuted either by information, after examination and commitment by a magistrate or
21 after leave granted by the court, or by indictment without such examination, commitment or leave.

22 (2) (a) A grand jury shall consist of eleven persons, of whom eight must concur to find an
23 indictment. A grand jury shall be drawn and summoned ~~only~~ at the discretion and order of the district judge.

24 (b) Whenever 100 plus one-half of one percent of the registered electors of a county have signed a
25 petition to summon a grand jury and have submitted the petition signatures to the county election administrator,
26 a grand jury shall be summoned and impaneled by the judge of the district court for the county receiving the
27 petition.

28 (3) A grand jury so summoned and impaneled shall first consider any cause advanced by those

1 who have brought and signed the petition, but the grand jury is the sole judge of its own duration and the
2 breadth and depth of its own inquiry.

3 (4) An indictment brought by a grand jury shall be prosecuted by the county attorney for the county
4 in which an alleged offense occurred, regardless of prosecutorial discretion. A county attorney who fails to
5 prosecute within 90 days after an indictment is handed down by the grand jury may be indicted for obstruction
6 of justice and official misconduct.

7 (5) If a grand jury summoned under this section is unable to obtain the prosecution of an
8 indictment by the county attorney of the county where the alleged offense occurred, the grand jury may compel
9 prosecutorial assistance from the attorney general, or the grand jury may retain a private prosecutor whose
10 fees shall be a lawful claim against the county where the alleged offense occurred.

11 (6) A grand jury summoned under this section may, in addition to indictments, seek court orders to
12 remedy situations under its investigation and may hire counsel independent of the county attorney's office."

13
14 NEW SECTION. Section 2. Two-thirds vote required. Because [section 1] is a legislative proposal
15 to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote
16 of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

17
18 NEW SECTION. Section 3. Submission to electorate. [This act] shall be submitted to the qualified
19 electors of Montana at the general election to be held in November 2026 by printing on the ballot the full title of
20 [this act] and the following:

- 21 YES on Constitutional Amendment ____.
- 22 NO on Constitutional Amendment ____.

23
24 NEW SECTION. Section 4. Effective date. [This act] is effective on approval by the electorate.

25 - END -