

SENATE BILL NO. 319

INTRODUCED BY M. BLASDEL, D. KARY

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PROPER VENUE FOR PROSECUTION OF CAMPAIGN PRACTICES OR ELECTION VIOLATIONS; AMENDING SECTIONS 13-37-113, 13-37-122, AND 13-37-124, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 13-37-113, MCA, is amended to read:

"13-37-113. Hiring of attorneys -- prosecutions. The commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations of chapter 35 of this title or this chapter. Any attorney retained or hired shall exercise the powers of a special attorney general, and the attorney may prosecute, subject to the control and supervision of the commissioner and the provisions of 13-35-240, 13-37-124, and 13-37-125, any criminal or civil action arising out of a violation of any provision of chapter 35 of this title or this chapter. All prosecutions must be brought in the state district court ~~for the county in which a violation has occurred or in the district court for Lewis and Clark County~~ provided for in 13-37-124. The authority to prosecute as prescribed by this section includes the authority to:

- (1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations of chapter 35 of this title or this chapter;
- (2) attend and give advice to a grand jury when cases involving criminal violations of chapter 35 of this title or this chapter are presented;
- (3) draw and file indictments, informations, and criminal complaints;
- (4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state or county from persons convicted of violating chapter 35 of this title or this chapter; and
- (5) do any other act necessary to successfully prosecute a violation of any provision of chapter 35 of this title or this chapter."

Section 2. Section 13-37-122, MCA, is amended to read:



1 **"13-37-122. Judicial review of orders of noncompliance.** A candidate or political treasurer who is the
 2 subject of an order of noncompliance may seek judicial review in the district court of the county in which the
 3 candidate resides or the county in which the political committee has its headquarters. All petitions for judicial
 4 review filed pursuant to this section must be expeditiously reviewed by the appropriate district court as provided
 5 in 13-37-124."

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 7 **Section 3.** Section 13-37-124, MCA, is amended to read:

8 **"13-37-124. Consultation and cooperation with county attorney.** (1) Except as provided in
 9 13-35-240, whenever the commissioner determines that there appears to be sufficient evidence to justify a civil
 10 or criminal prosecution under chapter 35 of this title or this chapter, the commissioner shall notify the county
 11 attorney of: ~~the county in which the alleged violation occurred and~~

12 (a) the county in which the candidate resides or the headquarters of the political committee is located.
 13 If the alleged violation involves both a candidate and a political committee, the commissioner shall notify the
 14 county attorney of the county in which the candidate resides.

15 (b) if the alleged violation does not involve a candidate or a political committee, the county in which the
 16 person alleged to have committed the violation resides.

17 (2) The address provided to the commissioner on forms submitted pursuant to 13-37-201 must be used
 18 to determine the residence of the candidate or the location of the headquarters of the political committee.

19 (3) The commissioner shall ~~arrange to~~ transmit to the county attorney all information relevant to the
 20 alleged violation, including the initiating complaint, the investigative file, the decision, and all exhibits related to
 21 the sufficiency finding. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days
 22 after receiving notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

23 ~~(2)~~(4) A county attorney may, at any time prior to the expiration of the 30-day time period specified in
 24 subsection ~~(4)~~ (3), waive the right to prosecute, and the waiver authorizes the commissioner to initiate the
 25 appropriate civil or criminal action.

26 ~~(3)~~(5) The provisions of ~~subsection~~ subsections (1) through (3) do not apply to a situation in which the
 27 alleged violation has been committed by ~~the~~ a county attorney ~~of a county~~. In this instance, the commissioner is
 28 authorized to directly prosecute any alleged violation of chapter 35 of this title or this chapter.

29 ~~(4)~~(6) (a) If a prosecution is undertaken by the commissioner, it must be brought in the district court for:
 30 (i) the county in which the candidate resides or the headquarters of the political committee is located.

1 If the prosecution involves both a candidate and a political committee, the prosecution must be brought in the
2 district court for the county in which the candidate resides.

3 (ii) if the alleged violation does not involve a candidate or a political committee, the county in which the
4 person alleged to have committed the violation resides.

5 (b) All all court costs associated with the prosecution must be paid by the state of Montana, and all fines
6 and forfeitures imposed pursuant to a prosecution by the commissioner, except those paid to or imposed by a
7 justice's court, must be deposited in the state general fund."

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9 NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,
10 penalties that were incurred, or proceedings that were begun before [the retroactive applicability date of this act].

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12 NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
14 remains in effect in all valid applications that are severable from the invalid applications.

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16 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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18 NEW SECTION. Section 7. Retroactive applicability. [This act] applies retroactively, within the
19 meaning of 1-2-109, to decisions of the commissioner of political practices made on or after January 5, 2015.

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