

HOUSE BILL NO. 455

INTRODUCED BY J. O'NEIL

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A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "COUNSEL" FOR THE PURPOSES OF APPEARANCES BEFORE ADMINISTRATIVE AGENCIES SUBJECT TO THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND AMENDING SECTIONS 2-4-105 AND 37-61-201, MCA."

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

**Section 1.** Section 2-4-105, MCA, is amended to read:

**"2-4-105. Representation by counsel.** (1) Any person compelled to appear in person or who voluntarily appears before any agency or its representative thereof shall **must** be accorded the right to be accompanied, represented, and advised by counsel. In a proceeding before an agency, every party shall **must** be accorded the right to appear in person or by or with counsel, but this chapter shall **may** not be construed as requiring an agency to furnish counsel to any such person.

(2) As used in subsection (1), "counsel" means:

(a) the person who appears; or

(b) a person authorized by the person provided for in subsection (2)(a), including:

(i) legal counsel; or

(ii) a relative, friend, or other spokesperson."

**Section 2.** Section 37-61-201, MCA, is amended to read:

**"37-61-201. Who considered to be practicing law.** Any Except as provided in 2-4-105, a person who holds out to the public or advertises as an attorney or who appears in any court of record or before a judicial body, referee, commissioner, or other officer appointed to determine any question of law or fact by a court or who engages in the business and duties and performs acts, matters, and things that are usually done or performed by an attorney at law in the practice of that profession for the purposes of parts 1 through 3 of this chapter is considered to be practicing law."

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