

HOUSE BILL NO. 598

INTRODUCED BY M. MONFORTON

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE GUN OWNERS ACCESS TO JUSTICE ACT; PROVIDING THAT THE RIGHT TO BEAR ARMS MAY NOT BE RESTRICTED UNLESS THERE IS A COMPELLING STATE INTEREST TO DO SO; PROVIDING FOR A RIGHT TO A JUDICIAL PROCEEDING; PROVIDING FOR THE AWARD OF ATTORNEY FEES AND COSTS TO THE PREVAILING PARTY; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Gun Owners Access to Justice Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Burden" means to directly or indirectly constrain, inhibit, curtail, or deny a person's right to bear arms or to compel any action contrary to a person's right to bear arms. It includes but is not limited to withholding benefits, excluding the person from governmental programs, and assessing criminal, civil, or administrative penalties.

(2) "Compelling state interest" means a governmental interest of the highest magnitude that cannot otherwise be achieved without burdening a person's right to bear arms.

(3) "Person" means an individual, association, partnership, corporation, estate, trust, foundation, or other legal entity.

(4) "Right to bear arms" means the right defined by Article II, section 12, of the Montana constitution.

(5) "State" means the state of Montana or any political subdivision or local government, municipality, or instrumentality of the state as well as any person acting under color of state law.

NEW SECTION. **Section 3. Right to bear arms protected.** (1) The state may not burden a person's



1 right to bear arms unless it proves that burdening the person's right to bear arms furthers a compelling state  
2 interest and is the least restrictive means to further that interest.

3 (2) A person whose right to bear arms has been burdened, or is likely to be burdened, in violation of  
4 subsection (1) may assert the violation or impending violation as a claim or defense in a judicial proceeding,  
5 regardless of whether the state or one of its political subdivisions is a party to the proceeding. The person  
6 asserting the claim or defense may obtain appropriate relief, including but not limited to injunctive relief,  
7 declaratory relief, and compensatory damages.

8 (3) A person who prevails on a claim to enforce the person's rights under Article II, section 12, of the  
9 Montana constitution or [sections 1 through 3] must be awarded reasonable attorney fees and costs.

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11 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified  
12 as an integral part of Title 49, chapter 1, and the provisions of Title 49, chapter 1, apply to [sections 1 through 3].

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

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18 **NEW SECTION. Section 6. Effective date.** [This act] is effective upon approval by the electorate.

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20 **NEW SECTION. Section 7. Submission to electorate.** [This act] shall be submitted to the qualified  
21 electors of Montana at the general election to be held in November 2016 by printing on the ballot the full title of  
22 [this act] and the following:

- 23  YES on Legislative Referendum \_\_\_\_.
- 24  NO on Legislative Referendum \_\_\_\_.

25 - END -