



AN ACT REVISING LAWS REGARDING PROSECUTORIAL IMMUNITY; PROVIDING QUALIFIED IMMUNITY FOR PROSECUTORS, PUBLIC SAFETY OFFICERS, AND LOCAL GOVERNMENTS REGARDING CLAIMS ARISING FROM AN ADMINISTRATIVE OR INVESTIGATORY FUNCTION ALLEGING A VIOLATION OF ARTICLE II, SECTION 36, OF THE MONTANA CONSTITUTION; PROVIDING ABSOLUTE IMMUNITY FOR PROSECUTORS FOR CLAIMS ARISING OUT OF A JUDICIAL FUNCTION ALLEGING A VIOLATION OF ARTICLE II, SECTION 36, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Prosecutorial immunity.** (1) A prosecutor performing a judicial function is absolutely immune from a claim based on Article II, section 36, of the Montana constitution.

(2) A prosecutor performing an administrative function or an investigatory function has qualified immunity for a claim based on Article II, section 36, of the Montana constitution.

(3) A public safety officer has qualified immunity for a claim based on Article II, section 36, of the Montana constitution.

(4) Local governments and the state of Montana are immune from a claim based on Article II, section 36, of the Montana constitution.

(5) The provisions of Article II, section 36, of the Montana constitution have no effect on the duty of the state of Montana or a local government to defend or indemnify prosecutors and public safety officers from a claim based on Article II, section 36, of the Montana constitution.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 46, and the provisions of Title 46 apply to [section 1].

**Section 3. Two-thirds vote required.** Because [section 1] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for

passage.

**Section 4. Effective date.** [This act] is effective July 1, 2017.

- END -

I hereby certify that the within bill,  
SB 0250, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

SENATE BILL NO. 250  
INTRODUCED BY N. SWANDAL

AN ACT REVISING LAWS REGARDING PROSECUTORIAL IMMUNITY; PROVIDING QUALIFIED IMMUNITY FOR PROSECUTORS, PUBLIC SAFETY OFFICERS, AND LOCAL GOVERNMENTS REGARDING CLAIMS ARISING FROM AN ADMINISTRATIVE OR INVESTIGATORY FUNCTION ALLEGING A VIOLATION OF ARTICLE II, SECTION 36, OF THE MONTANA CONSTITUTION; PROVIDING ABSOLUTE IMMUNITY FOR PROSECUTORS FOR CLAIMS ARISING OUT OF A JUDICIAL FUNCTION ALLEGING A VIOLATION OF ARTICLE II, SECTION 36, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.