

1 HOUSE BILL NO. 406

2 INTRODUCED BY M. NOLAND

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA BALLOT
 5 INTERFERENCE PROTECTION ACT; PROVIDING FOR BALLOT COLLECTION; REVISING EXCEPTIONS
 6 FOR BALLOT COLLECTION; ESTABLISHING REQUIREMENTS FOR BALLOT COLLECTION; REQUIRING
 7 THE SECRETARY OF STATE TO MAINTAIN ~~REGISTRIES~~ A REGISTRY FOR BALLOT COLLECTION
 8 ~~REGISTRATION AND BALLOT COLLECTION AND CONVEYANCE~~; ESTABLISHING A PROCESS TO
 9 REQUEST INFORMATION STORED IN ~~REGISTRIES~~ THE REGISTRY; REVISING PENALTIES FOR
 10 BALLOT COLLECTION; REQUIRING IMPROPERLY COLLECTED BALLOTS BE TREATED AS
 11 PROVISIONAL BALLOTS; ~~PROVIDING THE SECRETARY OF STATE WITH RULEMAKING AUTHORITY~~;
 12 AMENDING SECTIONS 13-35-702, 13-35-703, 13-35-704, AND 13-35-705, MCA; AND PROVIDING AN
 13 ~~IMMEDIATE~~ A DELAYED EFFECTIVE DATE."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
 17 ~~NEW SECTION. Section 1. — Ballot collection. (1) An individual permitted to collect and convey a~~
 18 ~~ballot under 13-35-703(2)(f):~~

19 ~~(a) must be a resident of the state as provided in 1-1-215;~~

20 ~~(b) may not be paid anything of value based on the number of ballots collected or conveyed;~~

21 ~~(c) shall register with the election administrator in each county where the individual intends to collect~~
 22 ~~and convey ballots under 13-35-703(2)(f) prior to collecting any ballot other than their own by providing the~~
 23 ~~election administrator with the individual's :~~

24 ~~(i) full name;~~

25 ~~(ii) mailing address;~~

26 ~~(iii) occupation;~~

27 ~~(iv) employer; and~~

28 ~~(v) any entity the individual is affiliated with in collecting and conveying ballots as an authorized~~

1 individual under 13-35-703(2)(f). The individual shall also report the entity's name, place of business, and
 2 mailing address.

3 ~~(d) must provide the elector whose ballot the individual collects with a receipt of collection at the time~~
 4 ~~the individual collects the elector's ballot. The secretary of state shall provide the receipt.~~

5 ~~(2) Each election administrator shall report to the secretary of state the registration information under~~
 6 ~~subsection (1)(c) within a timeframe established by the secretary of state in rules adopted in accordance with~~
 7 ~~subsection (4).~~

8 ~~(3) The secretary of state shall maintain and publish a database of the registration information~~
 9 ~~required under subsection (1)(c) in a manner determined by the secretary of state.~~

10 ~~(4) The secretary of state shall adopt rules to provide for the implementation of this section.~~

11

12 **SECTION 1. SECTION 13-35-702, MCA, IS AMENDED TO READ:**

13 **"13-35-702. Definitions.** As used in this part, the following definitions apply:

14 ~~(1) "Acquaintance" means an individual known by the voter.~~

15 ~~(2) "Caregiver" means an individual who provides medical or health care assistance to the voter in a~~
 16 ~~residence, nursing care institution, hospice facility, assisted living center, assisted living home, residential care~~
 17 ~~institution, adult day health care facility, or adult foster care home.~~

18 ~~(3)(1) "Collect" means to gain possession or control of a ballot.~~

19 ~~(4)(2) "Family member" means an individual who is related to the voter by blood, marriage, adoption,~~
 20 ~~or legal guardianship A VOTER'S SPOUSE, AN INDIVIDUAL RELATED TO THE VOTER BY CONSANGUINITY OR ADOPTION~~
 21 ~~WITHIN THE SECOND DEGREE, AN INDIVIDUAL RELATED TO THE VOTER'S SPOUSE BY AFFINITY OR ADOPTION WITHIN THE~~
 22 ~~SECOND DEGREE, OR THE LEGAL GUARDIAN FOR A VOTER.~~

23 ~~(5) "Household member" means an individual who resides at the same residence as the voter."~~

24

25 **Section 2.** Section 13-35-703, MCA, is amended to read:

26 **"13-35-703. Ballot collection prohibited -- exceptions.** (1) Except as provided in subsection (2), a
 27 person may not knowingly collect a another voter's voted or unvoted ballot.

28 (2) ~~This~~ Except as provided in subsection (3), this section does not apply to:

- 1 (a) an election official;
- 2 (b) a United States postal service worker or other individual specifically authorized by law to transmit
- 3 United States mail; OR
- 4 ~~(c) a caregiver;~~
- 5 ~~(d)(C) a family member;~~
- 6 ~~(e) a household member; or~~
- 7 ~~(f) an acquaintance.~~
- 8 (3) ~~An individual authorized to collect a voter's ballot pursuant to subsections (2)(c) through (2)(f) may~~
- 9 ~~not collect and convey more than six ballots. An individual authorized to collect a voter's ballot pursuant to~~
- 10 ~~subsections (2)(c) through (2)(f) SUBSECTION (2)(C) shall comply with the requirements of 13-35-704 and~~
- 11 ~~[section 1], if applicable, or is subject to penalties established in 13-35-705."~~

12

13 **Section 3.** Section 13-35-704, MCA, is amended to read:

14 **"13-35-704. Record of delivery.** (1) (a) An individual permitted to collect and convey a ballot under

15 ~~13-35-703(2)(c) through (2)(f)~~ 13-35-703(2)(c) shall sign a ballot collection and conveyance registry for each

16 ballot delivered when delivering the ballot to the polling place, a place of deposit, place or the election

17 administrator's office.

18 (b) In addition to the signature requirement under subsection (1)(a), the individual collecting and

19 conveying the ballot shall provide the following information:

- 20 ~~(1)(i)~~ (i) the individual's name, address, and phone number;
- 21 ~~(2)(ii)~~ (ii) the voter's name and address; ~~and~~
- 22 ~~(3)(iii)~~ (iii) the individual's relationship to the voter required to collect and convey a ballot pursuant to 13-
- 23 ~~35-703(2)(c) through (2)(f);~~
- 24 (iv) the date the ballot was conveyed; and
- 25 (v) a signed form from the voter conveying permission for the individual's ballot to be collected. An
- 26 election administrator shall ensure that the signature on the form is verified and shall compare the signature of
- 27 the voter with the voter's voter registration form or with the signature on the signature envelope.

28 (2) The secretary of state shall establish a single official statewide ballot collection and conveyance

1 registry.

2 (3) Each election administrator shall keep an official registry in the statewide ballot collection and
 3 conveyance registry established in accordance with subsection (2). Each election administrator shall report the
 4 information for each entry under subsection (1) to the registry in a time and manner established by the
 5 secretary of state.

6 (4) Subject to subsection (6), on request and for noncommercial use:

7 (a) the secretary of state shall provide any individual available extracts and reports from the official
 8 registry established in accordance with subsection (2); and

9 (b) an election administrator shall provide any individual available extracts and reports under their
 10 jurisdiction from the official registry kept in accordance with subsection (3).

11 (5) The secretary of state or an election administrator may collect a fee, commensurate with costs, to
 12 fulfill a request made in accordance with subsection (4).

13 (6) For a voter whose information is protected from general distribution under 13-2-115(6) or (7), the
 14 secretary of state or an election administrator may not include the voter's residential address on any register,
 15 list, mailing labels, or available extracts and reports, but may list the voter's name."

16

17 **Section 4.** Section 13-35-705, MCA, is amended to read:

18 **"13-35-705. Penalty -- treatment as provisional ballot.** ~~A-(1) (a) Each violation of a provision of this~~
 19 ~~part is a misdemeanor punishable by a fine of \$500 for each ballot unlawfully collected.~~

20 (b) Each ballot collected in violation of 13-35-703(3) is considered a separate violation of this part.

21 (2) A ballot collected and conveyed in violation of this part must be treated as a provisional ballot
 22 under 13-15-107, and the election administration shall give notice to the voter as required in accordance with
 23 13-13-245."

24

25 **NEW SECTION. Section 5. Notification to tribal governments.** The secretary of state shall send a
 26 copy of [this act] to each federally recognized tribal government in Montana.

27

28 **NEW SECTION. Section 6. Codification instruction.** ~~[Section 1] is intended to be codified as an~~

1 integral part of Title 13, chapter 35, part 7, and the provisions of Title 13, chapter 35, part 7, apply to [section 1].

2

3 NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured,
4 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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6 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are
7 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
8 the part remains in effect in all valid applications that are severable from the invalid applications.

9

10 NEW SECTION. SECTION 8. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JANUARY 1, 2022.

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12 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

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