

1 HOUSE BILL NO. 531

2 INTRODUCED BY C. HINKLE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING GOVERNMENT LIABILITY LAW; ALLOWING CERTAIN
5 PERSONS DEPRIVED OF RIGHTS BY PUBLIC EMPLOYEES TO SUE; PROHIBITING QUALIFIED
6 IMMUNITY AS A DEFENSE; ALLOWING ATTORNEY FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE
7 DATE."

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

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11 **NEW SECTION. Section 1. Civil action for deprivation of rights -- limitation of defenses --**
12 **attorney fees.** (1) Except as provided in 2-9-111 through 2-9-114, a public employee who illegally or
13 unconstitutionally deprives a person of any right provided by the constitution of the United States, the
14 constitution of Montana, or statute is liable to that person in a civil action.

15 (2) A public employee subject to suit under this section may not assert as a defense:

16 (a) that the right provided by the constitution of the United States, the constitution of Montana, or
17 statute was not clearly established at the time of the deprivation; or

18 (b) that the public employee believed the deprivation was legal or constitutional.

19 (3) If the person bringing a civil action under this section prevails, the court shall award the person
20 reasonable attorney fees.

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22 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
23 integral part of Title 2, chapter 9, part 1, and the provisions of Title 2, chapter 9, part 1, apply to [section 1].

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

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28 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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