

## 1 HOUSE BILL NO. 405

2 INTRODUCED BY L. SHELDON-GALLOWAY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN  
5 AMENDMENT TO ARTICLE II, SECTION 20 OF THE MONTANA CONSTITUTION; PROVIDING A PROCESS  
6 WHERE A GRAND JURY MAY BE CALLED BY THE ELECTORS OF ANY COUNTY IN MONTANA AND  
7 PROVIDING AN EFFECTIVE DATE."

8

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

10

11 **Section 1.** Article II, section 20, of The Constitution of the State of Montana is amended to read:

12 **"Section 20. Initiation of proceedings.** (1) Criminal offenses within the jurisdiction of any court  
13 inferior to the district court shall be prosecuted by complaint. All criminal actions in district court, except those  
14 on appeal, shall be prosecuted either by information, after examination and commitment by a magistrate or  
15 after leave granted by the court, or by indictment without such examination, commitment or leave.

16 (2) A grand jury shall consist of eleven persons, of whom eight must concur to find an indictment. ~~A~~  
17 ~~grand jury shall be drawn and summoned only at the discretion and order of the district judge."~~

18 (3) A grand jury shall be drawn and summoned at the discretion and order of the district judge or as  
19 follows:

20 (a) Whenever one-half of one percent of the registered electors of a county have signed a petition to  
21 summon a grand jury and have submitted the petition signatures to the county election administrator, a grand  
22 jury shall be summoned and empanelled by the judge of the district court for the county receiving the petition. A  
23 grand jury so summoned and empanelled shall:

24 (i) first consider any cause advanced by those who have brought and signed the petition, but the  
25 grand jury is the sole judge of its duration and the breadth and depth of its inquiry; and

26 (ii) conduct selected open proceedings to allow the public to present information or ask questions,  
27 and conduct other proceedings open or closed as it chooses, consistent with Article II, Sections 8, 9, and 10 of  
28 the Constitution of the State of Montana.

1 (b) An indictment brought by a grand jury must be prosecuted by the county attorney for the county in  
2 which an alleged offense occurred, regardless of prosecutorial discretion. A county attorney who fails to  
3 prosecute within 90 days an indictment being handed down by the grand jury may be indicted for obstruction of  
4 justice and official misconduct.

5 (c) If a grand jury summoned under this section is unable to obtain the prosecution of an indictment  
6 by the county attorney of the county where the alleged offense occurred, the grand jury may compel  
7 prosecutorial assistance from the attorney general or the grand jury may retain a private prosecutor whose fees  
8 shall be a lawful claim against the county where the alleged offense occurred.

9 (d) A grand jury summoned under this section may, in addition to indictments, seek court orders to  
10 remedy situations under its investigation and may hire counsel independent of the county attorney's office.

11  
12 **NEW SECTION. Section 2. Two-thirds vote required.** Because [section 1] is a legislative proposal  
13 to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote  
14 of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

15  
16 **NEW SECTION. Section 3. Submission to electorate.** [This act] shall be submitted to the qualified  
17 electors of Montana at the general election to be held in November 2024\*\*\*\* by printing on the ballot the full title  
18 of [this act] and the following:

- 19  YES on Constitutional Amendment \_\_\_\_.
- 20  NO on Constitutional Amendment \_\_\_\_.

21  
22 **NEW SECTION. Section 4. Effective Date.** [This act] is effective upon approval by the electorate.

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