



Montana Ballot Interference Prevention Act (BIPA) Enacted by Referendum in 2018

LIMITS WHO MAY COLLECT AND RETURN BALLOTS

- Applies to all elections - any ballots being returned in person on behalf of another
- No one may knowingly collect a voter's voted or unvoted ballot, except:
 - an election official
 - a U.S. postal worker
 - a caregiver
 - a family member
 - a household member
 - an acquaintance
- Any individual returning an absentee ballot for another person must sign a registry and provide:
 - the individual's name, address, and phone number
 - the voter's name and address
 - the individual's relationship to the voter
- No one may return more than 6 ballots for others
- A violation is punishable by a \$500 fine for each ballot unlawfully collected

MONTANA BIPA MODELED ON ARIZONA'S LAW, BUT HAS DIFFERENCES

2017 Session The Montana BIPA was first introduced as HB 212 (Essmann), which was tabled in the House State Administration Committee. SB 352 (Olszewski/Essmann) resurrected the BIPA, framed it as a legislative referendum, and passed.

HB 212 and SB 352 were based on Arizona's law, but with a few differences. Arizona's law:

- (1) does not allow an acquaintance to collect and return another's ballot;
- (2) does not place a limit on the number of ballots an authorized person may collect and return; and
- (3) establishes a criminal penalty for a violation.

Nov. 2018 SB 352/LR-126 in Montana became law upon approval of 63% of voters.

ARIZONA LAW CHALLENGED IN COURT AS DISCRIMINATORY

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| 2016 | Arizona's ballot collection law was enacted by HB 2023 in 2016. The Arizona Democratic Party and the Democratic National Committee filed a lawsuit (<i>DNC v. Hobbs</i>) argued that the ballot collection law violated the Voting Rights Act of 1965 because it adversely affected and discriminated against minority voters. The lawsuit also challenged an Arizona law allowing provisional ballots turned in at the wrong precinct to be discarded. |
| May 2018 | A U.S. district court judge upheld the Arizona laws. The plaintiffs appealed to the 9th Circuit Court. |
| Jan. 2020 | The 9th Circuit Court reversed the U.S. district court ruling and enjoined the state of Arizona from enforcing the ballot collection and out-of-precinct laws. The court found that the laws violated the Voting Rights Act by adversely and disparately affecting minority voters. The state of Arizona and the RNC are appealing the 9th Circuit Court decision to the U.S. Supreme Court. |
| Feb. 2020 | A federal court of appeals issued a stay of the 9th Circuit Court decision. This allows Arizona to enforce its ballot collection and out-of-precinct laws for the next 90 days, which means the laws will stay in effect through the March 17 democratic primary. |

MANY STATES HAVE BALLOT COLLECTION LAWS, SOME DO NOT

According to the National Conference for State Legislatures (NCSL):

- 27 states permit absentee ballots to be returned only by a family member, caregiver, or designee
 - 12 of these states, including Montana, limit the number of ballots that an authorized person may return
- 13 states do not address whether an agent or family member may return an absentee ballot for another voter
- 9 states permit an absentee ballot to be returned only by a voter's family member
- 1 state, Alabama, specifies that an absentee ballot may only be returned by the voter.

(more)

MORE INFORMATION

Montana

- [Montana's BIPA Statutes - Title 13, chapter 25, part 7, Montana Code Annotated](#)
- [Secretary of State's Election Directive #01-19 - Implementation of BIPA](#)
- Commissioner of Political Practices (COPP) webpage on BIPA - <http://politicalpractices.mt.gov/BIPA>
- [COPP - Policy - 5.0](#)
- [OPI Guidance](#)

Legal challenge - Arizona law

- [Summary of 9th Circuit Court of Appeals decision](#)
- [US News & World Report article on the recent stay of the 9th Circuit Court's decision](#)

Other states

- [NCSL article on ballot collection laws in other states](#)
- [Arizona ballot collection statute - Section 16-1005 Ballot abuse; violation; classification.](#)

State Administration and Veterans Affairs
Zoom Remote Meeting
February 27, 2020
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Exhibit 17