

SJ 31: IDENTITY OF COMPLAINANT ANALYSIS

BACKGROUND

At its April meeting, the Economic Affairs Interim Committee (EAIC) requested additional analysis on the identity of complainant and if removing the requirement for disclosing the complainant's identity would violate the confrontation clause.

16-12-125. Hotline.

- (2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number.
- (3) (a) The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.
- (b) The department may not redact the individual's name or city of residence from the complaint copy.

Section 16-12-125, MCA, provides that a complainant must be a resident and provide their name, address, and phone number in order to log a complaint to the Department of Revenue. In addition, the licensee is to be provided a copy of the complaint, and the complainant's name and city of residence is not to be redacted from the complaint.

Several constituents have expressed concern about this provision and are unwilling to utilize the hotline for fear of retribution.

ANALYSIS

The use of anonymous complaints implicates evidentiary issues in criminal or civil cases. The removal of subsection (3)(b), currently prohibiting the department from redacting the name of a complaining individual, will allow the department to use its discretion in redacting the name of the complaining individual where the disclosure of the complainant is unnecessary.

RECOMMENDATION

Remove 16-12-125(3)(b), which requires the department to immediately disclose the name of a complaining individual:

- 16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of the chapter.
- (2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number.

(3) ~~(a)~~ The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.

~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

COMMITTEE OPTIONS

Option A: Remove identity requirement in 16-12-125, MCA.

Option B: Leave as is.