

2021 Litigation Tracker - July 2024 Update

Bill Number and Short Title	Sponsor	Short description	Current Status of Lawsuit	Current Status of Bill	Lawsuit filed	Case Number	District Court	Judge	Appealed	Supreme Court action	Basis for Litigation in Introduced Bill or in Amendments?	Legal Review Note	LSD comments
SB 140 Revise laws relating to the judiciary	Keith Regier	Gets rid of judicial nominating commission, establishes direct gubernatorial appointment of judges	Resolved	Is law	March 2021	OP-21-0125	N/A	N/A	Yes	Upheld	Introduced Bill	N	resolved
HB 102 Generally revise gun laws	Seth Berglee	Rewrites Montana's gun laws, including allowing guns on campus	Resolved	Partly upheld and is law, partly (guns on campus) struck down	May 2021	DA-21-0605			Yes	2022 MT 128 MSC decided Board of Regents maintains power to regulate guns on college campuses, striking part of HB 102	Introduced Bill	Y	resolved
HB 102 Generally revise gun laws (2)	Seth Berglee	Rewrites Montana's gun laws, including allowing guns on campus	Resolved	Guns on campus permanently enjoined by MSC.	June 2021	18-DV-21-0581	Gallatin County	Rienne McElyea	Yes		Introduced Bill	Y	updated by JJ on 5/20/24
SB 319 Generally revise campaign finance laws	Greg Hertz	Makes several changes to campaign finance law, including allowing joint fundraising committees, also prohibited some campaign activities on college campuses	Resolved	Partly overturned. Rules in favor of plaintiffs, finding that the bill unconstitutionally included two provisions unrelated to its title and was amended during the legislative process to the extent that its original purpose was changed. The ruling strikes down restrictions on political activity on college campuses and a judicial recusal requirement, but leaves the original bill about campaign finance intact.	June 2021	1-DV-21-0611	Lewis and Clark County	Mike Menahan (originally McMahan, State filed motion to substitute on 6/14/21, then assigned to Seeley, then State filed a second motion for substitution on 6/17/21 and assigned to McMahan)	Yes	2024 MT 86 issued on 4/26/2024, the MSC ruled that the "State has in fact conceded HB 349 and SB 319 are unconstitutional by failing to provide any argument that they are in fact constitutional on appeal."	Amended which changed subject and purpose of title according to MSC 2024 MT 86	N	DC did not give atty fees, on appeal MSC reversed, now in DC to determine fees
Sec 2 of HB 319 Generally revise campaign finance laws)2)	Greg Hertz	Makes several changes to campaign finance law, including allowing joint fundraising committees, also prohibited some campaign activities on college campuses	Resolved	Partly overturned. Rules in favor of plaintiffs, finding that the bill unconstitutionally included two provisions unrelated to its title and was amended during the legislative process to the extent that its original purpose was changed. The ruling strikes down restrictions on political activity on college campuses and a judicial recusal requirement, but leaves the original bill about campaign finance intact.	June 2021	18-DV-21-0581	Gallatin County	Rienne McElyea	No (YES- JJ)	2024 MT 86 issued on 4/26/2024, the MSC ruled that the "State has in fact conceded HB 349 and SB 319 are unconstitutional by failing to provide any argument that they are in fact constitutional on appeal."	Amended which changed subject and purpose of title according to MSC 2024 MT 86	N	DC did not give atty fees, on appeal MSC reversed, now in DC to determine fees

HB 112	John Fuller	Requires athletes to play in sports according to their sex assigned at birth	Resolved	Permanently enjoined by MSC	June 2021	18-DV-21-0581	Gallatin County	Rienne McElyea	Yes	2024 MT 86 issued on 4/26/2024, the MSC ruled that the "State has in fact conceded HB 349 and SB 319 are unconstitutional by failing to provide any argument that they are in fact constitutional on appeal."	Introduced Bill	Y	updated by JJ on 5/10/24
HB 349	Mike Hopkins	Designed to protect Freedom of Association and Free Speech on college campuses	Resolved	Permanently enjoined by MSC	June 2021	18-DV-21-0581	Gallatin County	Rienne McElyea	Yes	2024 MT 86 issued on 4/26/2024, the MSC ruled that the "State has in fact conceded HB 349 and SB 319 are unconstitutional by failing to provide any argument that they are in fact constitutional on appeal." para 42 of opinion	Introduced Bill	Y	updated by JJ on 5/10/24
HB 136	Lola Sheldon-Galloway	Pain-Capable Unborn Child Protection Act	On appeal for second time	Temp injunction affirmed by MSC pending trial. DC granted SJ holding 136, 171, and 140 unconstitutional, on appeal to MSC	August 2021	MSC (2): DA 24-0147/ MSC (1): DA 21-0521/ DC: 13-DV-21-0999	Yellowstone County	Kurt Krueger	Yes	2022 MT 157 MSC Affirmed DC then sent back to trial. On 2/29/2024 DC granted summary judgment to Plaintiffs. Now on second appeal to MSC.	Introduced Bill	Y	opening brief filed on appeal on PI
HB 171	Sharon Greef	Abortion-Inducing Drug Risk Protocol Act	On appeal for second time	Temp injunction affirmed by MSC pending trial. DC granted SJ holding 136, 171, and 140 unconstitutional, on appeal to MSC	August 2021	MSC (2): DA 24-0147/ MSC (1): DA 21-0521/ DC: 13-DV-21-0999	Yellowstone County	Kurt Krueger	Yes	2022 MT 157 MSC Affirmed DC then sent back to trial. On 2/29/2024 DC granted summary judgment to Plaintiffs. Now on second appeal to MSC.	Introduced Bill	Y	opening brief filed on appeal on PI
HB 140	Amy Regier	Requires option to view ultrasound, fetal heartbeat, etc. before an abortion is performed "provide information"	On appeal for second time	Temp injunction affirmed by MSC pending trial. DC granted SJ holding 136, 171, and 140 unconstitutional, on appeal to MSC	August 2021	MSC (2): DA 24-0147/ MSC (1): DA 21-0521/ DC: 13-DV-21-0999	Yellowstone County	Kurt Krueger	Yes	2022 MT 157 MSC Affirmed DC then sent back to trial. On 2/29/2024 DC granted summary judgment to Plaintiffs. Now on second appeal to MSC.	Introduced Bill	N	opening brief filed on appeal on PI

HB 229	Jane Gillette	Prohibits Obamacare insurance policies from paying for abortion, with exceptions (rape, incest, save life of mother)	<i>Awaiting Supreme Court decision</i>	Blocked	August 2021	13-DV-21-0999	Yellowstone County	Michael Moses	Yes		Introduced Bill	N	
HB 702 lawsuit 1	Jennifer Carlson	Prohibits discrimination based on vaccine status	DC Ruling that §49-2-312(1)-(3) okay, but (4) violates single subject	Partly in effect	June 2021	7-DV-21-0089	Richland County	Olivia Rieger	Most likely June 2024 DC ruling will be appealed	2022 MT 234 court agreed with DC no preliminary injunction and remanded.	Introduced Bill	N	DC ruled in June 2024 that §49-2-312(1)-(3) okay, but (4) violates single subject
HB 702 lawsuit 2	Jennifer Carlson	Prohibits discrimination based on vaccine status	Resolved	Partly overturned (not enforceable in health care settings)	September 2021	9-21-cv-00108	Federal court: District of Montana	Donald Molloy	No	N/A	Both introduced bill and amendments	N	Appealed to 9th Circuit and argued before the Court in Feb. 2024
HB 702 lawsuit 3	Jennifer Carlson	Prohibits discrimination based on vaccine status	Pending in federal district court	Partly in effect	September 2022	4-22-cv-00081	Federal court: District of Montana	Brian Morris	N/A	N/A	Introduced Bill	N	Updated 5/20/2024
HB 176 lawsuit 1	Sharon Greef	Closes late voter registration at noon the day before an election (amended 13-2-304)	Resolved	Permanently overturned	April 2021	8-DV-21-0500	Yellowstone County	First Judge Knisely, then P's motion to substitute, Judge Harada assigned case but disqualified herself, then assigned to Moses	Yes	2024 MT 66 , Permanently blocked the bill, ruling it unconstitutional	Introduced Bill	N (LC 656, not LRN or memo to file)	2024 MT 66
HB 176 lawsuit 2	Sharon Greef	Closes late voter registration at noon the day before an election (amended 13-2-304)	Resolved by MSC ruling in 2024 MT 66	Blocked	September 2021	13-DV-21-0451	Cascade County (later consolidated with Yellowstone cases)	John Kutzman	Yes	2024 MT 66 , Permanently blocked the bill, ruling it unconstitutional	Introduced Bill	N (LC 656, not LRN or memo to file)	2024 MT 66
SB 169	Mike Cuffe	Strengthens voter ID laws	Resolved	Permanently overturned	April 2021	13-DV-21-0451	Yellowstone County	First Judge Knisely, then P's motion to substitute, Judge Harada assigned case but disqualified herself, then assigned to Moses	Yes	Permanently blocked the bill, ruling it unconstitutional		N	2024 MT 66

HB 530	Wendy McKamey	Prohibits paid ballot collection	Resolved	Permanently overturned	April 2021	13-DV-21-0451	Yellowstone County	First Judge Knisely, then P's motion to substitute, Judge Harada assigned case but disqualified herself, then assigned to Moses	Yes	Permanently blocked the bill, ruling it unconstitutional		N	2024 MT 66
HB 506	Paul Fielder	Puts additional sideboards on redistricting commission, also prohibits sending ballots to people under age 18	Resolved	Permanently overturned	April 2021	13-DV-21-0451	Yellowstone County	First Judge Knisely, then P's motion to substitute, Judge Harada assigned case but disqualified herself, then assigned to Moses	Yes	Permanently blocked the bill, ruling it unconstitutional		MT	2024 MT 66
HB 224	Paul Fielder	Allows trappers to snare wolves	Pending in district court; state filed motion to dismiss	In effect	October 2022	1-DV-22-0896	Lewis and Clark County	Chris Abbott				N	Updated 5/15/2023 JRC
HB 225	Paul Fielder	Authorizes wolf trapping, sets season dates	Pending in district court; state filed motion to dismiss	In effect	October 2022	1-DV-22-0896	Lewis and Clark County	Chris Abbott				N	Updated 5/15/2023 JRC
SB 314	Bob Brown	Liberalizes wolf hunting regs to include use of bait and night vision under some circumstances	Pending in district court; state filed motion to dismiss	In effect	October 2022	1-DV-22-0896	Lewis and Clark County	Chris Abbott				N	Updated 5/15/2023 JRC
SB 267	Bob Brown	Authorizes paid reimbursement for wolf trapping/hunting	Pending in district court; state filed motion to dismiss	In effect	October 2022	1-DV-22-0896	Lewis and Clark County	Chris Abbott				N	Updated 5/15/2023 JRC
HB 379	Sue Vinton	Authorizes sex-based insurance ratemaking	Lawsuit filed; state's motion to dismiss denied 2/9/24, matter pending	In effect	November 2022	1-DV-22-0925	Lewis and Clark County	Mike Menahan				N	Updated 5/15/2023 JRC
HB 325	Barry Usher	Elect Supreme Court justices by districts	Resolved	Referendum struck from the ballot	May 2021	2-DV-21-0120	Silver Bow County	Peter Ohman	Yes.	DA 21-0382 (MTSC) - sent back to Dist. Ct in 2021 MT 287; AD 22-0229 (MTSC) Upheld lower court ruling, blocked from the 2022 general election ballot in 2022 MT 160.		Y	Updated 5/15/2024 - JRC

SB 280	Carl Glimm	Requires surgery in order to change sex on birth certificate	Awaiting Supreme Court action	DC Order 6/26/23 (Def. State in Contempt of Court. Ordered to Pay Attorney fees/Costs from 1/10/23 to 6/1/23, Summary Judgment Granted pending determination of attorney fees and costs) -- Blocked; MTSC appeal dismissed without prejudice in DA 24-0318	July 2021	13-DV-21-0873	Yellowstone County	Collette Davies	Yes	Notice of appeal dismissed without prejudice on 5/29/2024		N	opening brief on appeal filed
SB 265	Steve Fitzpatrick	Revises arbitration laws among utility companies	Resolved	Permanently enjoined	May 2021	1-21-cv-00047	Federal court: District of Montana	Kathleen DeSoto, Susan Watters	No	N/A		N	
SB 266	Steve Fitzpatrick	Revises unfair trade practices regarding utility companies	Resolved	Permanently enjoined	May 2021	1-21-cv-00047	Federal court: District of Montana	Kathleen DeSoto, Susan Watters	No	N/A		N	
SB 358	John Esp	Repeals numeric nutrient standards for water quality	Resolved on April 4, 2022 through partial motion to dismiss in regards to SB 358	In effect	March 2022	4-22-cv-00032	Federal court: District of Montana	Brian Morris	N/A	N/A		N	SB 358 was made Montana law on April 30, 2021, and repealed the Circular 12-A numeric nutrient criteria. The Ninth Circuit ruled shortly after on October 6, 2021, that the variance did not violate the Clean Water Act. Upper Missouri Waterkeeper v. U.S. Env't Prot. Agency, 15 F.4th 966, 976 (9th Cir. 2021). JRC 6/4
HB 701 lawsuit 1	Mike Hopkins	The main bill establishing MT's recreational marijuana program	USDC granted Agency motion to dismiss on 3/26/24	In effect	July 2023		Federal court		N/A	N/A		N	USDC granted DOR motion to dismiss on 3-26-24, reasoning no imminent harm for preliminary injunction standard and no standing, also not ripe. JRC 6/4/2024
HB 701 lawsuit 2	Mike Hopkins	The main bill establishing MT's recreational marijuana program	Lawsuit filed, motion to dismiss pending	In effect	July 2023	DV 2023-498	Lewis and Clark County	Christopher Abbott	N/A	N/A		N	Agency Motion to dismiss pending as of 9/26/23; JRC 6/4/24
SB 199	Greg Hertz	Food freedom	Lawsuit filed, but no summons	In effect	December 2023		Lewis and Clark County	Christopher Abbott	N/A	N/A		N	no summons filed; No Supreme Court docket found; JRC 6/4/24

HB 407	Mark Noland	Bans local governments from restricting single-use plastics	Lawsuit filed / Distric Court Order / Appeal filed and dismissed without prejudice filed	Statute held facially unconstitutional	December 2023	BDV 2023-754	Lewis and Clark County	McMahon	DA 24-324	N/A		N	Appealed to Supreme Court DA 24-324
SB 99	Cary Smith	Establish parameters for K-12 human sexuality education	Filed in April 2024, Empower MT et al. v. State of Montana, Gianforte, OPI, Arntzen, BPE, Ps seeking injunctive relief	In effect	Apr-24	DDV 24-230		Christopher Abbott				N	proceeding at DC level
The Associated Press v. Barry Usher		The plaintiffs, Montana newspapers and broadcasters, challenged then Representative Usher's decision to meet privately with Republic members of the House Judiciary Committee during the 2021 legislative session.		Resolved		2022 MT 24, 407 Mont. 290, 503 P.3d 1086.		Judge Menahan	Yes	MSC affirmed DC grant of summary judgment			MSC affirmed.