

**HB 355 (2021):
Alternate Option for
Partisan Election of
Judges**

HOUSE BILL NO. 355

INTRODUCED BY S. KERNS

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING JUDICIAL ELECTION LAWS;
PROVIDING FOR THE PARTISAN NOMINATION AND ELECTION OF SUPREME COURT JUSTICES,
DISTRICT COURT JUSTICES, AND JUSTICES OF THE PEACE; AMENDING SECTIONS 3-2-101, 3-5-201,
3-10-201, 3-10-206, 13-14-111, AND 13-14-118, MCA; REPEALING SECTIONS 13-14-211 AND 13-35-231,
MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 3-2-101, MCA, is amended to read:

"3-2-101. Number, nomination, election, and term of office. (1) The supreme court consists of a chief justice and six associate justices who are elected by the qualified electors of the state at large at the general state elections next preceding the expiration of the terms of office of their predecessors, respectively, and hold their offices for the term of 8 years from and after the first Monday of January next succeeding their election.

(2) A supreme court justice, including the chief justice, must be nominated and elected on a partisan ballot in the same manner as provided for in Title 13, except that an incumbent justice who is the only candidate for the office must be placed on the general ballot as provided in Article VII, section 8, of the Montana constitution and [section 4].

(3) Each vacancy for justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify these numbers to the office of the secretary of state."

Section 2. Section 3-5-201, MCA, is amended to read:

"3-5-201. Election Nomination, election, and oath of office. (1) The judges of the district court, except judges pro tempore, must be elected by the qualified voters of the district.

1 (2) (a) Judges of the district court must be nominated and elected on a partisan ballot in the same
 2 manner as provided for partisan candidates in Title 13 except that an incumbent judge who is the only
 3 candidate for the office must be placed on the general ballot as provided in Article VII, section 8, of the Montana
 4 constitution and [section 4].

5 (b) Each vacancy for district court office is a separate and independent office for election purposes.

6 (c) The clerk of district court in a multijudge district shall certify the department numbers assigned
 7 pursuant to 3-5-403 to the office of secretary of state for election purposes.

8 ~~(2)~~(3) Except as provided in subsection (1), each judge of ~~a~~the district court shall, as soon as the
 9 judge has taken and subscribed the official oath, file the official oath in the office of the secretary of state."
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11 **Section 3.** Section 3-10-201, MCA, is amended to read:

12 "**3-10-201. Election Nomination and election.** (1) Except as provided in 3-10-206, each justice of
 13 the peace must be elected by the qualified electors of the county at the general state election immediately
 14 preceding the expiration of the term of office of the justice of the peace's predecessor.

15 (2) A justice of the peace must be nominated and elected ~~on the nonpartisan judicial ballot~~ in the
 16 same manner as judges of the district court.

17 (3) Each judicial office must be a separate and independent office for election purposes, each office
 18 must be numbered by the county commissioners, and each candidate for justice of the peace shall specify the
 19 number of the office for which the candidate seeks to be elected. A candidate may not file for more than one
 20 office.

21 ~~(4) Section 13-35-231, prohibiting political party contributions to judicial officers, applies to justices of~~
 22 ~~the peace."~~

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24 NEW SECTION. Section 4. Form of ballot on retention for certain incumbent judicial officers.

25 (1) If the only candidate for an office of supreme court justice, the supreme court chief justice, or a district court
 26 office is the incumbent, the name of the incumbent must be placed on the official ballot for general election as
 27 follows:

28 Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the

1 state of Montana be retained in office for another term?

2 (2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202,
3 for a voter to indicate a "yes" or a "no" vote. The form must include the incumbent's political party designation
4 and may not include a write-in space for the office.

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6 **Section 5.** Section 3-10-206, MCA, is amended to read:

7 **"3-10-206. Vacancies.** Subject to the residency requirements provided in 3-10-204 and the election
8 requirements provided in 3-10-201(2) ~~through (4)~~ and (3), a vacancy in the office of a justice of the peace must
9 be filled pursuant to 7-4-2206 until a successor is elected and qualified."

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11 **Section 6.** Section 13-14-111, MCA, is amended to read:

12 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates
13 for nonpartisan offices, ~~including judicial offices,~~ must be nominated and elected according to the provisions of
14 this title."

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16 **Section 7.** Section 13-14-118, MCA, is amended to read:

17 **"13-14-118. Vacancies among nominees after nomination and before general election.** (1) If
18 after the primary election and before the 85th day before the general election a candidate is not able to run for
19 the office for any reason, the vacancy must be filled by the candidate next in rank in number of votes received
20 in the primary election.

21 (2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the
22 vacancy occurs no later than 85 days before the general election, a 10-day period for accepting declarations for
23 nomination or statements of candidacy and nominating petitions for the office must be declared by:

24 (a) the governor for national, state, ~~judicial district,~~ legislative, or any multicounty district office;

25 (b) the governing body of the appropriate political subdivision for all other offices.

26 (3) The names of the candidates who filed as provided in subsection (2) must be certified and must
27 appear on the general election ballot in the same manner as candidates nominated in the primary.

28 (4) If the vacancy occurs later than 85 days before the general election and a qualified individual is

1 not elected to the office at the general election, the office is vacant and must be filled as provided by law."

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3 NEW SECTION. Section 8. Repealer. The following sections of the Montana Code Annotated are

4 repealed:

5 13-14-211. Judicial offices separate and independent offices for election purposes.

6 13-35-231. Unlawful for political party to contribute to judicial candidate.

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8 NEW SECTION. Section 9. Codification instruction. [Section 4] is intended to be codified as an
9 integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section 4].

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11 NEW SECTION. Section 10. Saving clause. [This act] does not affect rights and duties that
12 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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14 NEW SECTION. Section 11. Applicability. [This act] applies to elections for an office of the supreme
15 court, district court, or justice of the peace occurring on or after [the effective date of this act].

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