

BEFORE THE LEGISLATURE OF THE STATE OF MONTANA

In Re Legislative Subpoena,

MONTANA LEGISLATURE,

vs.

DIRK M. SANDEFUR, Associate Justice,
Montana Supreme Court.

**RESPONSE AND RETURN ON
LEGISLATIVE SUBPOENA**

Comes Now, Dirk M. Sandefur, Associate Justice of the Montana Supreme Court and hereby respectfully submits this response and return in good faith voluntary compliance with the undated subpoena(s) duces tecum issued by the Legislature, through the President of the Senate (Mark Blasdel) and Speaker of the Montana House of Representatives (Wylie Galt), for the production of specified documents. I hereby respond and make this return on subpoena in my capacity as an individual Associate Justice only—not as a representative or agent of the Montana Supreme Court as a whole.

1. Subject Matter Jurisdiction.

The Legislature has implied subpoena power and authority under Article III, Section 1, and Article V, Section 1, of the Montana Constitution. *State ex rel. James v. Aronson*, 132 Mont. 120, 314 P.2d 849 (1957); 43 Mont. Op. Att'y Gen. 220 (1990) (Racicot, M.). As a matter of law, the legislative subpoena power is generally broad, but limited in scope to the discovery of information reasonably related to and in furtherance of its exclusive constitutional duty to enact laws within its constitutional police power including “inquiries into the administration of existing laws, studies of proposed laws, and surveys of defects in our social, economic or political system for the purpose of enabling the [legislature] to remedy them.” *Trump v. Mazars USA, LLP*, __ U.S. __, __, 140 S. Ct. 2019, 2031–32 (2020) (internal citation and punctuation omitted). Law enforcement and other functions allocated to the coordinate Executive and Judicial branches of government are not legitimate purposes and uses of the legislative subpoena power. *Trump*, __ U.S. at __, 140 S. Ct. at 2031–32. The legislative subpoena power is further subject to all individual constitutional and legal rights and privileges applicable under the circumstances. *Trump*, __ U.S. at __, 140 S. Ct. at 2031–32

2. Procedural Service Requirement—Objection to Personal Jurisdiction.

Legislative subpoenas “may be served by any elector of the state,” with service proven “by the elector’s affidavit that the elector delivered a copy to the witness.” Section 5-5-102, MCA.¹

¹ While the constitutional subpoena power of the Legislature necessarily includes the power and authority to issue legislative subpoenas duces tecum, the statutory provisions currently governing legislative subpoenas

Here, based on email transmittal from Supreme Court staff, I am aware that, on or about April 12-16, 2021, the Legislature issue two different subpoena duces tecum in my name compelling production of specified documentary information—the first incorrectly referenced the email address of mmcgrath@mt.gov over which I have no control, and the second correctly references my state email, dsandefur@mt.gov. Neither subpoena duces tecum was personally served on me, or anyone authorized to receive service on my behalf, as expressly required by § 5-5-102, MCA. Accordingly, I hereby object to the subject subpoenas on the ground of defective service, and resulting lack of personal jurisdiction over me. However, in due respect to the Legislature and without waiver of my objection, I will and do hereby voluntarily comply with the subject subpoenas duces tecum in good faith.

3. Response and Return on Subject Matter (1) – MJA Poll Records.

Command: Produce “[a]ny and all communications, results, or responses, related to any and all polls sent to members of the Judiciary by the Court Administrator . . . between January 4, 2021, and April 14, 2021, including emails and attachments sent and received by your government email account, dsandefur@mt.gov . . . as well as text messages, phone messages, and phone logs sent or received by your personal work phones, and any notes or record of conferences of the Justices regarding the same.”

Response and Return: To the best of my recollection, I am aware that, at some point in the specified time period, a quantum of state email system traffic occurred between the Court Administrator and various individual judges of the MJA regarding a poll of the membership as to whether the MJA should support or oppose 2021 Senate Bill 140 (regarding the proposed abolishment of the Montana Judicial Nominating Commission in favor of direct gubernatorial appointment of judicial vacancies pending election) *before the Legislature as a matter of public policy*. To the best of my recollection, some of that email traffic was sent unsolicited to my state email account via a large group email list and similar respond-to-all responses of others. I have no documentary record of any of those email communications because: (1) I did not respond or otherwise participate in the poll or related communications; (2) the email traffic was unsolicited and which I immediately deleted; (3) the Montana Department of Administration (MDOA) is the system administrator of the state email system and any state email server repository; (4) MDOA allocates only a small amount of individual email account space and regulates that limitation by lock-out at maximum capacity and system directive for user deletion of old emails to free-up space for new emails; and (5) I have always presumed that MDOA complies with all state law and policies regarding judicial branch email communications as applicable. I have been a duly elected Montana district court judge or supreme court justice since taking office in 2003. For the past 18 years to date, it has been my routine practice to immediately delete non-essential email traffic in accordance the above-referenced MDOA regulation.

My personal cell phone communications are protected and privileged from access or disclosure under Article II, Section 10 of the Montana Constitution. Except for occasional communications with my staff or other members of the Court regarding constitutionally protected and privileged deliberative matters pending before the Supreme Court, I generally do not use my personal cell phone for work-related communications. To the best of my recollection and without

expressly apply only to subpoenas compelling the attendance and testimony of witnesses. See §§ 5-5-101 and -103 through -105, MCA.

waiving any individual constitutional or other legal privilege or right, I have no personal text messages, phone messages, or phone log records regarding the above-referenced MJA poll.

4. Response and Return on Subject Matter (2) – Pending/Potential 2021 Legislation.

Command: Produce “[a]ny and all emails or other communications between January 4, 2021, and April 14, 2021, regarding legislation pending before, or potentially pending before, the 2021 Montana Legislature; including emails and attachments sent and received by your government email account, dsandefur@mt.gov . . . as well as text messages, phone messages, and phone logs sent or received by your personal work phones, and any notes or record of conferences of the Justices regarding the same.”

Response and Return: On January 14, 2021, I submitted the final report of the Montana Supreme Court Standing Master Advisory Committee to the Chief Justice. It tangentially relates to potential 2021 legislation to the extent that the purpose of the Committee was to explore potential solutions to certain State Bar membership concerns regarding District Court Standing Masters through a set of Court-promulgated uniform procedural rules, potential legislation, or otherwise. Reference attached.

To the best of my recollection, in or about January 2021, I engaged in 2-3 related email communications with the Court Administrator, who was also a member of the Committee, regarding the final report of the Standing Master Committee. In accordance with the above-referenced MDOA regulation of my state email account, I immediately deleted those email communications as non-essential and have no record of them.

To the best of my recollection, at some point in the approximate first half of the specified period, I was copied via a group email list with other members of the Supreme Court with an unsolicited copy of an email communication from the Court Administrator to another member of the Court in regard to: (1) the status of SB 140 in the legislative process; (2) one or more identified concerns with the mechanics of the proposed legislation; (3) a statement that the parties to the email should not attempt to suggest a corrective revision to the Legislature. To the best of my recollection, the email made passing reference to a lobbyist retained by the MJA to monitor proposed legislation of interest or concern to the operation of the judicial branch. In accordance with the above-referenced MDOA regulation of my state email account, I immediately deleted those email communications as non-essential and have no record of them.

To the best of my recollection, other than as referenced herein and except as at issue in constitutionally privileged deliberative proceedings pending before the Supreme Court, I neither have, nor have I ever had, any documentary information regarding any other pending or potential 2021 legislation in the specified period of time. Nor do I have any recollection or record of any poll other than as referenced above. In the event that my state email address may have been included in an unsolicited group email list that I do not recall, I was not a voluntary party to any such email and to the best of my recollection would have immediately deleted them in accordance with the above-referenced MDOA regulation of my state email account.

My personal cell phone communications are protected and privileged from access or disclosure under Article II, Section 10 of the Montana Constitution. Except for occasional

communications with my staff or other members of the Court regarding constitutionally protected and privileged deliberative matters pending before the Supreme Court, I generally do not use my personal cell phone for work-related communications. To the best of my recollection and without waiving any individual constitutional privilege or right, I have no personal text messages, phone messages, or phone log records regarding any pending or potential 2021 legislation in the specified period.

5. Response and Return on Subject Matter (3) – MJA Business Using State Resources.

Command: Produce “[a]ny and all emails or other communications between January 4, 2021, and April 14, 2021, regarding business conducted by the Montana Judges Association using state resources; including emails and attachments sent and received by your government email account, dsandefur@mt.gov . . . as well as text messages, phone messages, and phone logs sent or received by your personal work phones, and any notes or record of conferences of the Justices regarding the same.”

Response and Return: On January 5, 2021, I was involved in an email string communication with one of my staff and a member of the Court Administrator’s staff regarding my 2020 Continuing Legal Education (CLE) status and carry-over credits in relation to my upcoming 2021 CLE report to the Court Administrator. Reference attached.

On or about March 22, 2021, I received a group email from a member of the Court Administrator’s staff to the members of the Supreme Court regarding the registration documents and miscellaneous conference materials regarding the annual Spring 2021 MJA CLE Conference in Lewistown, MT. Reference attached.

Sometime in the specified period, I received a group email from a member of the Court Administrator’s staff regarding the interest and participation of conference attendees in a dinner on the Charlie Russell Choo-Choo in Lewistown, Montana, incident to the Spring 2021 MJA CLE. To the best of my recollection, I responded and confirmed that my wife and I planned on attending and participating in the dinner. To the best of my recollection, I also received a multitude of unsolicited group email responses from other potential conference attendees to each other and the initially-involved Court Administrator staff member. To the best of my recollection, I was not involved in those communications other than as stated here. In accordance with the above-referenced MDOA regulation of my state email account, I immediately deleted those email communications as have no record of them.

To the best of my recollection, sometime in or about late April or early May 2021, I received a group email from a member of the Court Administrator’s staff notifying conference attendees of the cancellation of the planned Charlie Russell Choo-Choo dinner at the Spring 2021 MJA CLE Conference. To the best of my recollection, I did not respond but received a multitude of unsolicited group email responses from other potential conference attendees to each other and the initially-involved Court Administrator staff member. In accordance with the above-referenced MDOA regulation of my state email account, I immediately deleted those email communications as have no record of them.

My personal cell phone communications are protected and privileged from access or disclosure under Article II, Section 10 of the Montana Constitution. Except for occasional

communications with my staff or other members of the Court regarding constitutionally protected and privileged deliberative matters pending before the Supreme Court, I generally do not use my personal cell phone for work-related communications. Nonetheless, to the best of my recollection and without waiving any individual constitutional privilege or right, I have no personal text messages, phone messages, or phone log records regarding any MJA business using state resources in the specified period.

6. Compliance by Personal Appearance or Sooner Production.

The subject subpoenas duces tecum expressly command me to “appear . . . to produce the following . . . unless the documents are produced sooner.” (Emphasis added.) Upon email submittal with referenced documents prior to the specified date and time, this Response and Return is intended to fully voluntarily comply with the subject subpoenas without need for personal appearance. However, in my discretion, I will also personally appear via videoconferencing at the appointed date and time.

DATED this 19th day of April, 2019



DIRK M. SANDEFUR, Associate Justice
Montana Supreme Court

Montana Supreme Court Standing Master Advisory Committee

To: Hon. Mike McGrath, Chief Justice, Montana Supreme Court

From: Dirk M. Sandefur, Associate Justice & MSCSMAC Chair

Date: January 14, 2021

Re: MSCSMAC Committee Report -- Uniform Rules of Procedure Proposals

By prior order (AF 19-0314), the Court appointed the MSCSMAC to discuss and explore potential solutions to various concerns raised by one or more members of the State Bar of Montana, *i.e.*, P. Mars Scott, *et al*, incident to the 2019 Session of the Montana Legislature regarding the function and procedure of District Court Standing Masters currently operating in various Montana Judicial Districts¹ within the over-arching framework of §§ 3-5-124 through -126, MCA (2019), and various local district charter orders. In addition to a member of this Court as chair, the committee included three family law practitioner/Bar Members from Missoula, Bozeman, and Billings (Mr. Scott, Christopher J. Gillette, and Jill D. LaRance), a district judge in a Standing Master District (Hon. Rienne McElyea, Mont. 18th Jud. Dist.), a District Standing Master (Amy Rubin, Mont. 4th Jud. Dist.), and the Supreme Court Administrator (Beth McLaughlin).

The primary concerns considered by the Committee were the stated desires of the Bar Members for litigant rights to opt-out of standing master referrals, substitute Masters, and directly appeal Master decisions to the Montana Supreme Court. At the outset, the Chair suggested that the Committee temporarily set the direct appeal issue aside and attempt to address the Bar Member concerns through a set of uniform rules of procedure, modeled in form on the existing uniform rules of procedure governing courts of limited jurisdiction.²

The Committee proceeded down that avenue but, after considerable discussion and debate over the course of multiple meetings, was ultimately unable to reach consensus on a particular rule set due to controversy over whether the proposed uniform rules should include a right to substitute district standing masters, a right to direct appeal to this Court,

¹ District Standing Masters are currently functioning under local rules charters in five judicial districts—the 4th (Missoula County), 8th (Cascade County), 9th (Glacier, Pondera, and Toole Counties), 18th (Gallatin County), and 13th (Yellowstone County).

² The Committee was sharply divided from the outset on the question of the need or desirability of a right of direct appeal to this Court and thus did not reach a consensus or take a formal vote thereon.

the applicability/non-applicability of M. R. Civ. P. 52(b) and 59-60 to standing master proceedings, and the retained supervisory authority of referring district courts. The Standing Master member separately raised various other issues as to the format and substance of any proposed uniform rules. Based on this irreconcilable impasse, the Committee resolved to shutter itself and forward to the Court the following alternative rules proposals considered by the Committee:

- (1) Proposal A. Justice Sandefur drafted this proposed uniform rules set modeled-on and as a largely a common amalgam of the existing charter orders currently in place in the Montana 8th, 13th, and 18th Judicial Districts, tailored for uniformity and conformance to §§ 3-5-124 through -126, MCA, and governing Montana case law. This proposal accordingly provides no right to direct appeal to this Court, no right to substitute standing masters, and expressly clarifies consistent with currently governing statutory procedure that M. R. Civ. P. 52(b) and 59-60 do not apply to standing master proceedings. This proposal particularly provides for and specifies the retained supervisory authority of the referring district court to except a case from standing master referral, exercise supervisory control along the way, or re-assume primary administration of a case to address particular needs or exigencies in individual cases.
- (2) Proposal B. This proposal is a variation of Proposal A, modified by Bar Members Scott, Gillette, and LaRance to expressly provide for substitution of standing master by reference to the existing judicial substitution rule, direct appeal of right to the Montana Supreme Court, application of M. R. Civ. P. 52(b) and 59-60 to standing master proceedings, and excision of the above-referenced retained district court authority provisions.
- (3) Proposal C. This proposal set is a variation of Proposal A, modified by Standing Master Member Rubin to address various other issues as to format and substance from the perspective of a Standing Master.

Respectfully submitted,

Justice Dirk M. Sandefur
MSCSMAC Chair

Sandefur, Dirk

From: Sandefur, Dirk
Sent: Tuesday, January 5, 2021 11:54 AM
To: Gregor, Gwyn
Subject: 2020 DMS Cle Report
Attachments: Sandefur 2020CJE letter.pdf; 2020 CJE Form to report hours.doc

Looks good. Please proceed and advise. Thanks.

Dirk

From: Gregor, Gwyn <GGregor2@mt.gov>
Sent: Tuesday, January 5, 2021 8:56 AM
To: Sandefur, Dirk <dsandefur@mt.gov>
Subject: RE: 2020 DMS Cle Report

Here's the final one for 2020. I got the corrected letter from Shauna and this is the final. Let me know if it's good and I'll get your signature stamped and sent off.

Thanks

Gwyn Gregor
Montana Supreme Court
Judicial Assistant to Justices Rice, Sandefur, and Gustafson
444-5573
ggregor2@mt.gov

From: Sandefur, Dirk <dsandefur@mt.gov>
Sent: Tuesday, January 5, 2021 8:21 AM
To: Gregor, Gwyn <GGregor2@mt.gov>
Subject: RE: 2020 DMS Cle Report

Good Morning –

Is this the first one or the corrected one?

Dirk

From: Gregor, Gwyn <GGregor2@mt.gov>
Sent: Monday, January 4, 2021 8:08 AM
To: Sandefur, Dirk <dsandefur@mt.gov>
Subject: RE: 2020 DMS Cle Report

Here you go.

Gwyn Gregor
Montana Supreme Court
Judicial Assistant to Justices Rice, Sandefur, and Gustafson
444-5573

ggregor2@mt.gov

From: Sandefur, Dirk <dsandefur@mt.gov>
Sent: Monday, January 4, 2021 7:48 AM
To: Gregor, Gwyn <GGregor2@mt.gov>
Subject: RE: 2020 DMS Cle Report

No, that's not correct. I attended the 2020 Fall MJA CLE in its entirety. Please make sure my report reflects that. Thanks.

Dirk

From: Gregor, Gwyn <GGregor2@mt.gov>
Sent: Tuesday, December 29, 2020 10:02 AM
To: Sandefur, Dirk <dsandefur@mt.gov>
Subject: RE: 2020 DMS Cle Report

Sounds good. We'll just use the carryover since I don't think you did any CLE's this year, correct?

I'm almost done in asking questions!

Gwyn Gregor
Montana Supreme Court
Judicial Assistant to Justices Rice, Sandefur, and Gustafson
444-5573
ggregor2@mt.gov

From: Sandefur, Dirk <dsandefur@mt.gov>
Sent: Tuesday, December 29, 2020 9:56 AM
To: Gregor, Gwyn <GGregor2@mt.gov>
Subject: 2020 DMS Cle Report

Here this is. Please proceed. Thanks.

Dirk

From: Ryan, Shauna <shryan@mt.gov>
Sent: Tuesday, December 29, 2020 9:47 AM
To: Sandefur, Dirk <dsandefur@mt.gov>
Subject: FW: 2020 CJE Form

Here you go. Happy New Year!

From: Ryan, Shauna
Sent: Monday, December 7, 2020 12:24 PM
To: Sandefur, Dirk <dsandefur@mt.gov>
Subject: 2020 CJE Form

Please complete the attached form and return it to me by February 1st.

Thanks much.

Shauna Ryan
Montana Supreme Court
Judicial Education Coordinator
PO Box 203005
Helena, MT 59620-3005
(406) 841-2967
shryan@mt.gov

Sandefur, Dirk

From: Gregor, Gwyn
Sent: Tuesday, January 5, 2021 12:20 PM
To: Ryan, Shauna
Cc: Sandefur, Dirk
Subject: CLE Credits for Justice Sandefur
Attachments: doc00804020210105121645.pdf; Sandefur 2020CJE letter.pdf

Shauna, attached is Justice Sandefur's CJE Activities form for 2020 along with the letter that you sent.

If you need anything else, please let me know.

Thanks and Happy New Year!

Gwyn Gregor
Montana Supreme Court
Judicial Assistant to Justices Rice, Sandefur, and Gustafson
444-5573
ggregor2@mt.gov

Sandefur, Dirk

From: Ryan, Shauna
Sent: Monday, March 22, 2021 12:03 PM
To: Baker, Beth; Gustafson, Ingrid; McGrath, Mike; McKinnon, Laurie; Rice, Jim; Sandefur, Dirk; Shea, Jim
Subject: Spring MJA Conference - Lewistown
Attachments: Memo to Judge RE Motel Registration.doc; Registration Form.doc; MENU.docx; Proposed Spring Agenda.doc

Importance: High

Good morning,

Attached please find the necessary information (4 documents) for the spring MJA conference in Lewistown.

This will be the only conference information you will receive.

If you have any questions, please contact me.

Have a great week!

Shauna Ryan
Montana Supreme Court
Judicial Education Coordinator
PO Box 203005
Helena, MT 59620-3005
(406) 841-2967
shryan@mt.gov

MONTANA STATE LEGISLATURE

SUBPOENA

WITNESS: Justice Dirk Sandefur
Montana Supreme Court
Justice Building
215 N. Sanders St.
Helena, Montana 59601

THE MONTANA STATE LEGISLATURE, to Justice Sandefur.

You are hereby required to appear at the Montana State Capitol Building, room 303, in the City of Helena, Montana, on the 19th day of April, 2021, at 3:00 p.m., to produce the following documents, unless the documents are produced sooner:

- (1) Any and all communications, results, or responses, related to any and all polls sent to members of the Judiciary by Court Administrator Beth McLaughlin between January 4, 2021, and April 14, 2021; including emails and attachments sent and received by your government e-mail account, dsandefur@mt.gov, delivered as hard copies and .pst digital files; as well as text messages, phone messages, and phone logs sent or received by your personal or work phones; and any notes or records of conferences of the Justices regarding the same.
- (2) Any and all emails or other communications between January 4, 2021 and April 14, 2021 regarding legislation pending before, or potentially pending before, the 2021 Montana Legislature; including emails and attachments sent and received by your government e-mail account, dsandefur@mt.gov, delivered as hard copies and .pst digital files; as well as text messages, phone messages, and phone logs sent or received by your personal or work phones; and any notes or records of conferences of the Justices regarding the same.
- (3) Any and all emails or other communications between January 4, 2021 and April 14, 2021 regarding business conducted by the Montana Judges Association using state resources; including emails and attachments sent and received by your government e-mail account, dsandefur@mt.gov, delivered as hard copies and .pst digital files; as well as text messages, phone messages, and phone logs sent or received by your work phone; and any notes or records of conferences of the Justices regarding the same.

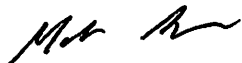
This request pertains to the Legislature's investigation into whether members of the Judiciary or employees of the Judicial Branch deleted public records and information in violation of state law and policy; and whether the current policies and processes of the Judicial Standards Commission are sufficient to address the serious nature of polling members of the Judiciary to prejudge legislation and issues which have come and will come before the courts for decision.

Please note this request excludes any emails, documents, and information related to decisional case-related matters made by Montana justices or judges in the disposition of such matters. Any personal, confidential, or protected documents or information responsive to this request will be redacted and not subject to public disclosure.

Pursuant to section 5-5-101, MCA, *et seq.*, a person cannot refuse to testify to any fact or produce any paper concerning which the person is examined for the reason that the witness's testimony or the production of the paper tends to disgrace the witness or render the witness infamous. Section 5-5-105, MCA, does not exempt a witness from prosecution and punishment for perjury committed by the witness during the examination.

DATED in Helena, Montana, this 15th day of April, 2021.

By:



Senator Mark Blasdel, President of the Montana Senate.

By:



Representative Wylie Galt, Speaker of the Montana House of Representatives.

MONTANA STATE LEGISLATURE

SUBPOENA

WITNESS: Justice Dirk Sandefur
Montana Supreme Court
Justice Building
215 N. Sanders St.
Helena, Montana 59601

THE MONTANA STATE LEGISLATURE, to Justice Sandefur.

You are hereby required to appear at the Montana State Capitol Building, room 303, in the City of Helena, Montana, on the 19th day of April, 2021, at 3:00 p.m., to produce the following documents, unless the documents are produced sooner:

- (1) Any and all communications, results, or responses, related to any and all polls sent to members of the Judiciary by Court Administrator Beth McLaughlin between January 4, 2021, and April 14, 2021; including emails and attachments sent and received by your government e-mail account, mmcgrath@mt.gov, delivered as hard copies and .pst digital files; as well as text messages, phone messages, and phone logs sent or received by your personal or work phones; and any notes or records of conferences of the Justices regarding the same.
- (2) Any and all emails or other communications between January 4, 2021 and April 14, 2021 regarding legislation pending before, or potentially pending before, the 2021 Montana Legislature; including emails and attachments sent and received by your government e-mail account, mmcgrath@mt.gov, delivered as hard copies and .pst digital files; as well as text messages, phone messages, and phone logs sent or received by your personal or work phones; and any notes or records of conferences of the Justices regarding the same.
- (3) Any and all emails or other communications between January 4, 2021 and April 14, 2021 regarding business conducted by the Montana Judges Association using state resources; including emails and attachments sent and received by your government e-mail account, mmcgrath@mt.gov, delivered as hard copies and .pst digital files; as well as text messages, phone messages, and phone logs sent or received by your work phone; and any notes or records of conferences of the Justices regarding the same.

This request pertains to the Legislature's investigation into whether members of the Judiciary or employees of the Judicial Branch deleted public records and information in violation of state law and policy; and whether the current policies and processes of the Judicial Standards Commission are sufficient to address the serious nature of polling members of the Judiciary to prejudge legislation and issues which have come and will come before the courts for decision.


Please note this request excludes any emails, documents, and information related to decisional case-related matters made by Montana justices or judges in the disposition of such matters. Any personal, confidential, or protected documents or information responsive to this request will be redacted and not subject to public disclosure.

Pursuant to section 5-5-101, MCA, *et seq.*, a person cannot refuse to testify to any fact or produce any paper concerning which the person is examined for the reason that the witness's testimony or the production of the paper tends to disgrace the witness or render the witness infamous. Section 5-5-105, MCA, does not exempt a witness from prosecution and punishment for perjury committed by the witness during the examination.

DATED in Helena, Montana, this 14th day of April, 2021.

By: 

Senator Mark Blasdel, President of the Montana Senate.

By: 

Representative Wylie Galt, Speaker of the Montana House of Representatives.