

WAIVER OF LEGISLATIVE PRIVILEGE FOR
COMMUNICATIONS RELATED TO BILL DRAFTS

During each legislative session, members of the public as well as lobbyists and journalists request the communications related to a particular bill draft. These communications are traditionally referred to as “junque files.” Junque files typically include emails between the legislator and legislative staff, lobbyists, stakeholders, or other third parties regarding the drafting of the bill. The junque files may also include documents of draft language provided to the bill drafter. The Legislative Services Division has always responded promptly to a request for a junque file, while also informing the legislator that a junque file has been requested and provided.

This summer, however, a District Court judge issued a 30-page order¹ that held that a legislator’s communications between the legislator and legislative staff, lobbyists, stakeholders, or other third parties is considered privileged. The privilege does not extend to communications between a legislator and the executive branch or the judicial branch.² Moreover, the privilege does not extend to bill draft requests that are made by a legislative committee or the committee deliberations.

The purpose of this document is to inform you of your rights under this order to exercise your privilege as a legislator to not provide communications that are subject to legislative privilege to the public. Communications, such as emails, between you and the executive branch or the judicial branch are not privileged and will be provided upon request. Additionally, the fact that a bill draft request has been requested, all draft legislation that is provided to you from legislative staff, and all versions of your bill draft as it makes its way through the editing and preparation process will be provided upon request.

If you wish to waive your privilege as a legislator to not provide communications that are subject to legislative privilege to the public, please sign below and return this document to Legislative Services Executive Director Jerry Howe. If we do not receive this waiver from you, we will assume you wish to exercise your legislative privilege and we will not provide privileged communications regarding your bill drafts.

Lastly, please bear in mind that a Legal Review Note is required to be prepared under the Joint Rules of the Legislature and is therefore not considered a privileged document at this time.³

¹ See [Opinion and Order on Motion to Quash](#) (dated July 20, 2024) in [Montana Conservation Voters v. Jacobsen](#), (DDV-2023-702) (Montana First Judicial District).

² See *Order* at 29, lines 5-18.

³ See [Joint Rules of the Montana Legislature](#), Rule 10-130(6).

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I, _____ (please print full name) waive my legislative privilege as it applies to communications related to bill drafts I have requested for the 2025 Legislative Session.

_____ Signature _____ Date

Please return this document to Legislative Services Executive Director Jerry Howe.