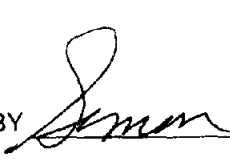


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

House BILL NO. 419

INTRODUCED BY



A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE PENALTY FOR OFFICIAL MISCONDUCT FROM A JAIL TERM OF 6 MONTHS TO A JAIL TERM OF 2 YEARS; AND AMENDING SECTION 45-7-401, MCA."

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

Section 1. Section 45-7-401, MCA, is amended to read:

"45-7-401. Official misconduct. (1) A public servant commits the offense of official misconduct when in ~~his~~ the public servant's official capacity, ~~he~~ the public servant commits any of the following acts:

(a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;

(b) knowingly performs an act in ~~his~~ the public servant's official capacity ~~which he~~ that the public servant knows is forbidden by law;

(c) with the purpose to obtain advantage for ~~himself~~ the public servant or another, performs an act in excess of ~~his~~ the public servant's lawful authority;

(d) solicits or knowingly accepts for the performance of any act a fee or reward ~~which he~~ that the public servant knows is not authorized by law; or

(e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

(2) A public servant convicted of the offense of official misconduct shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed ~~6 months~~ 2 years, or both.

(3) The district court ~~shall have~~ has exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from ~~his~~ office without pay pending final judgment. Upon final judgment of conviction, ~~he~~ the public servant shall permanently forfeit ~~his~~ the office. Upon acquittal, ~~he~~ the public servant ~~shall~~ must be reinstated in ~~his~~ the office and ~~shall~~ must receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public

1 servant or any proceeding authorized by law to carry into effect ~~such~~ the impeachment or removal."

2

-END-