

Fact Sheet

Senate Bill 13

Remove Supreme court original jurisdiction for ballot review

Senate Bill 13 seeks to eliminate the Montana Supreme Court's original jurisdiction in cases involving ballot reviews, except for writs of habeas corpus. This change would mean that such cases would first need to be heard in lower courts before potentially reaching the Supreme Court on appeal.

[See Bill Text Here](#)

Sponsor: Senator Daniel Emrich (R- Great Falls)

This is a Senate Select Committee on Judicial Oversight and Reform requested bill.

What concerns have been raised regarding SB 13?

SB 13 proposes significant changes to the Montana Supreme Court's role in reviewing ballot initiatives and issuing certain judicial writs. These changes could introduce delays in the ballot initiative process and raise questions about the practical and constitutional implications of shifting jurisdiction to district courts. While the bill repeals statutory language granting the Supreme Court authority to issue specific writs, the Montana Constitution appears to preserve much of this authority.

Constitutional Issues

Original Jurisdiction

The Montana Constitution grants the Supreme Court original jurisdiction over habeas corpus writs, which cannot be legislatively removed (per Article VII, Section 2, and Article II, Section 19).

Appellate Jurisdiction

Repealing § 3-2-202 would not remove the court's constitutional authority to issue writs necessary for appellate jurisdiction, as this authority is directly granted by Article VII, Section 2.

Judicial Powers

Courts would retain the power to issue writs like mandamus, certiorari, prohibition, and injunction when exercising constitutional jurisdiction.

Practical Implications for Ballot Initiatives:

Groups proposing initiatives would face challenges with time-sensitive signature gathering if required to navigate two levels of judicial review.

Risks of partisan judicial conflicts could arise, leading to potential due process or equal protection challenges.

Montana's judicial districts vary in caseload and resources. Some districts may process cases more slowly than others, leading to inconsistencies in how quickly ballot disputes are resolved.