

Glenda Wiles

From: MACO <MACO@mtcounties.org>
Sent: Thursday, November 2, 2017 9:13 AM
To: MACO
Subject: MT Supreme Court declares Marsy's Law void
Attachments: Marsy's Law - Opinion and Order 11.1.17.pdf

On November 1, 2017, the Montana Supreme Court issued an Opinion and Order (attached) on a 5-2 vote declaring that Constitutional Initiative C-116 (Marsy's Law) is "void in its entirety." By way of background, MACo had joined with a group of petitioners earlier this year in requesting that the Supreme Court issue a judgment voiding the enactment of Marsy's Law, due to the financial burdens and legal uncertainties that the law would impose on Montana counties. On June 30, 2017, the Montana Supreme Court issued an Order temporarily staying (suspending) the implementation of CI-116, Marsy's Law, which was scheduled to go into effect on July 1. Following issuance of a stay, the Court accepted and reviewed briefs from a variety of parties prior to issuing its ruling.

MACo's challenge was based primarily on the following narrow legal issue: Whether CI-116 violated the 'separate amendment, separate vote' requirement set forth at Article XIV, Section 11 of the Montana Constitution. That section reads as follows: "If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted on separately." MACo's petition argued that CI-116 amended by implication at least 8 sections of the Montana Constitution, including the rights to due process and privacy, and many rights of those accused of crime. MACo had also argued that the duties imposed on prosecutors by Marsy's Law infringed on the Supreme Court's authority to regulate attorney conduct.

In its ruling, the Supreme Court largely adopted MACo's reasoning and held that if a proposed Constitutional initiative had the effect of making "two or more amendments that are substantive and not closely related," this would violate the 'separate amendment, separate vote' requirement of the Montana Constitution. In this ruling, the Court explained that it did not matter if the proposal expressly or impliedly amended other provisions of the Constitution. If the net effect was to amend separate provisions without a separate vote, the proposed amendment would be void.

This ruling does not at all affect the requirements of MCA Title 46, Chapter 24, and we continue to strongly support the role of county law enforcement agencies and prosecutors in providing fair and proper treatment to victims and witnesses of crime. As always, feel free to call us if you have questions.

Brian Hopkins

MACo General Counsel & Personnel Services
2715 Skyway Drive, Suite B
Helena, MT 59602-1213

406.441-5473 – Office

406.442.5238 – Fax

bhopkins@mtcounties.org