



## LEGAL PROTECTIONS FOR PUBLIC HEALTH OFFICIALS

### Montana Fact Sheet

## Obstructing Public Servant

Nationwide, state and local public health officials working to protect the public from COVID-19 are on the receiving end of threatening and harassing conduct for simply fulfilling their duty to protect the public health. In response, the Network conducted research to examine whether the states and Washington, D.C., have criminal statutes punishing individuals who impede public health officials' duties with such behavior. Our research is presented in this [chart](#). Many states have adopted statutes to protect public officials generally; included here are those with broad enough language to include public health officials. However, we have also included the three states with laws that if broadened, would encompass public health officials, namely, Illinois, North Carolina, and Vermont. While 35 states and Washington, D.C., have such a statute, the remaining 15 states either do not have a statute protecting government officials in these circumstances or do not have one protecting public health officials. Of the 35 states and Washington, D.C., all but two, Louisiana and Oklahoma, include protections for state **and** local officials. Below is more information on Montana's relevant law.

### West's Montana Code Annotated, § 45-7-302 Obstructing peace officer or other public servant

- (1) A person commits the offense of obstructing a peace officer or public servant if the person knowingly obstructs, impairs, or hinders the enforcement of the criminal law, the preservation of the peace, or the performance of a governmental function, including service of process.
- (2) It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, provided that the peace officer was acting under the peace officer's official authority.
- (3) A person convicted of the offense of obstructing a peace officer or other public servant, including a person serving process, shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both


### Relevant Definitions

#### West's Montana Code Annotated, § 45-2-101

"Government" includes any branch, subdivision, or agency of the government of the state or any locality within it.

"Peace officer" means a person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person's authority.

"Public servant" means any officer or employee of government, including but not limited to legislators, judges, and firefighters, and any person participating as a juror, advisor, consultant, administrator, executor, guardian, or court-



appointed fiduciary. The term does not include witnesses. The term "public servant" includes one who has been elected or designated to become a public servant.

## Penalties

### **West's Montana Code Annotated, § 45-7-302**

Up to 6 months imprisonment and/or up to a \$500 fine

## Summary

A person is guilty of obstructing a public servant when he/she obstructs, impairs, or hinders the performance of a governmental function. "Government" includes any branch, subdivision, or agency of the state. "Public servant" includes any employee or officer of government. If convicted, a person faces up to 6 months imprisonment and/or a \$500 fine.

## Template for Notifying Violators

**Below is a sample template for notifying individuals regarding their conduct relative to the code.**

**West's Montana Code Annotated, § 45-7-302** prohibits obstructing public servants. [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email to the Montana Governor threatening his life if he announced a mask mandate.] *This may constitute a violation of § 45-7-302. If convicted, you face up to 6 months imprisonment and a fine of up to \$500.*

- If the conduct is extreme, add: *We have notified the [insert proper law enforcement agency] of this conduct.*
- If the conduct does not rise to the level of reporting, add: *Should you continue with this conduct, we may report the matter to [insert law enforcement agency].*