

Montana Code Annotated 2013

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3-1-501. What acts or omissions are contempts -- civil and criminal contempt. (1) The following acts or omissions in respect to a court of justice or proceedings in a court of justice are contempts of the authority of the court:

- (a) disorderly, contemptuous, or insolent behavior toward the judge while holding the court tending to interrupt the due course of a trial or other judicial proceeding;
 - (b) a breach of the peace, boisterous conduct, or violent disturbance tending to interrupt the due course of a trial or other judicial proceeding;
 - (c) misbehavior in office or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;
 - (d) deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding;
 - (e) disobedience of any lawful judgment, order, or process of the court;
 - (f) assuming to be an officer, attorney, or counsel of a court and acting as that individual without authority;
 - (g) rescuing any person or property in the custody of an officer by virtue of an order or process of the court;
 - (h) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial;
 - (i) any other unlawful interference with the process or proceedings of a court;
 - (j) disobedience of a subpoena duly served or refusing to be sworn or answer as a witness;
 - (k) when summoned as a juror in a court, neglecting to attend or serve as a juror or improperly conversing with a party to an action to be tried at the court or with any other person in relation to the merits of the action or receiving a communication from a party or other person in respect to it without immediately disclosing the communication to the court;
 - (l) disobedience by a lower tribunal, magistrate, or officer of the lawful judgment, order, or process of a superior court or proceeding in an action or special proceeding contrary to law after the action or special proceeding is removed from the jurisdiction of the lower tribunal, magistrate, or officer.
- (2) Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of the officer.
- (3) A contempt may be either civil or criminal. A contempt is civil if the sanction imposed seeks to force the contemnor's compliance with a court order. A contempt is criminal if the court's purpose in imposing the penalty is to punish the contemnor for a specific act and to vindicate the authority of the court. If the penalty imposed is incarceration, a fine, or both, the contempt is civil if the contemnor can end the incarceration or avoid the fine by complying with a court order and is criminal if the contemnor cannot end the incarceration or avoid the fine by complying with a court order. If the court's purpose in imposing the sanction is to attempt to compel the contemnor's performance of an act, the court shall impose the sanction under [3-1-520](#) and may not impose a sanction under [45-7-309](#).
- (4) A person may be found guilty of and penalized for criminal contempt by proof beyond a reasonable doubt. The procedures provided in Title 46 apply to criminal contempt prosecutions, except those under [3-1-511](#).

History: En. Sec. 396, p. 125, Bannack Stat.; re-en. Sec. 455, p. 226, L. 1867; re-en. Sec. 531, p. 144, Cod. Stat. 1871; en. Sec. 566, p. 185, L. 1877; re-en. Sec. 566, 1st Div. Rev. Stat. 1879; re-en. Sec. 584, 1st Div. Comp. Stat. 1887; re-en. Sec. 2170, C. Civ. Proc. 1895; re-en. Sec. 7309, Rev. C. 1907; re-en. Sec. 9908, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1209; re-en. Sec. 9908, R.C.M. 1935; R.C.M. 1947, 93-9801; amd. Sec. 5, Ch. 10, L. 1993; amd. Sec. 1, Ch. 496, L. 2001.

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