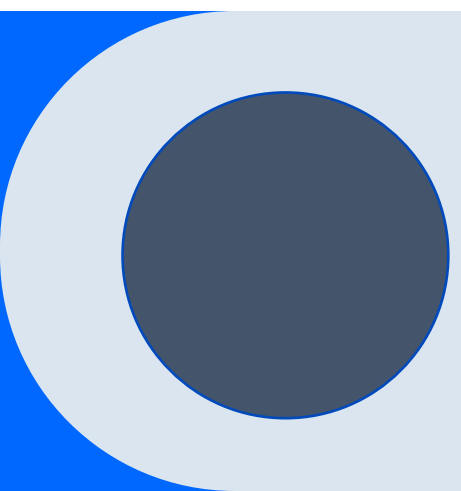





Residence vs. Domicile



State Administration & Veterans' Affairs Interim Committee
May 4, 2026
by Andria Hardin, Legislative Attorney



Legal Terms

Definitions in Black's Law Dictionary

11th edition 2019

RESIDENT/RESIDENCY

- Residence is the act or fact of living in a given place for some time
- Resident is someone who lives permanently in a particular place; specifically a person who has established a domicile in a given jurisdiction

DOMICILE

- Requires bodily presence plus an intention to make the place one's home
- A person's true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere

Background Info

- Resident/residence is found 1,629 times in the MCA
- Domicile is found 190 times in the MCA
- Resident is in the Montana Constitution; domicile is not
- Terms used interchangeably in family law and some sections of Title 87 Fish & Wildlife
- Many of the Titles/Chapters/Parts where these terms are found have their own particular definitions
- State of legal residence = domicile for military service members

DOMICILE

- Habitation
- Intent to make permanent
- Intent to return when absent

Residence -- Rules for Determining

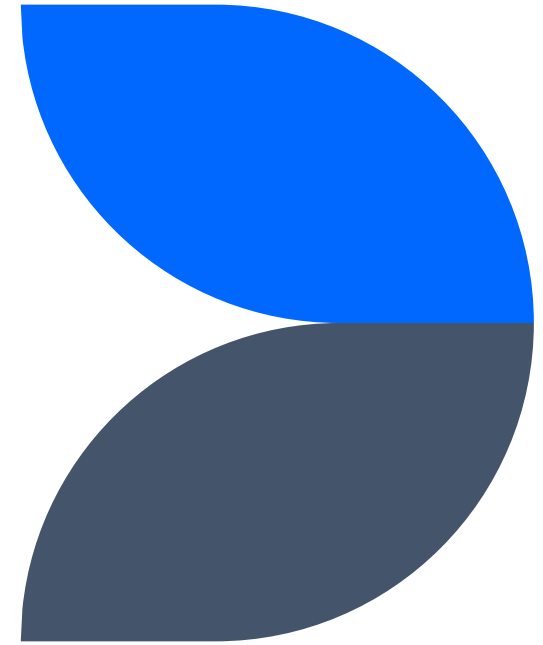
Section 1-1-215, MCA

Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

- (1) It is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
- (2) There may be only one residence. If a person claims a residence within Montana for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.
- (3) A residence cannot be lost until another is gained.
- (4) The residence of an unmarried minor is:
 - (a) the residence of the minor's parents;
 - (b) if one of the parents is deceased or the parents do not share the same residence, the residence of the parent having legal custody;
 - (c) if neither parent has legal custody, the residence of the legal guardian or custodian appointed by a court of competent jurisdiction; or
 - (d) if the conditions in 20-5-502 are met, the residence of the caretaker relative.
- (5) In the case of a controversy, the district court has jurisdiction over which residence is the residence of an unmarried minor.
- (6) Except as provided in Title 20, chapter 5, part 5, and this section, the residence of an unmarried minor who has a parent living cannot be changed by either the minor's own act or an act of the minor's guardian.
- (7) The residence can be changed only by the union of act and intent.

Voting Context

Residence v. Domicile



Montana Constitution



Article IV, Section 2. Qualified elector.

Any citizen of the United States 18 years of age or older who meets the registration and **residence** requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind, as determined by a court.

Article IV, Section 3. Elections.

The legislature shall provide by law the requirements for **residence**, registration, absentee voting, and administration of elections





DOMICILE

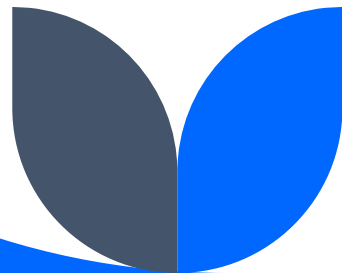
- Habitation
- Intent to make permanent
- Intent to return when absent

Rules for Determining Residence

Section 13-1-112, MCA (2023)

For registration, voting, or seeking election to the legislature, the residence of an individual must be determined by the following rules as far as they are applicable:

- (1) The residence of an individual is where the individual's habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning.
- (2) An individual may not gain or lose a residence while kept involuntarily at any public institution, not necessarily at public expense; as a result of being confined in any prison; or solely as a result of residing on a military reservation.
- (3) (a) An individual in the armed forces of the United States may not become a resident solely as a result of being stationed at a military facility in the state.
(b) An individual may not acquire a residence solely as a result of being employed or stationed at a training or other transient camp maintained by the United States within the state.
(c) A member of a reserve component of the United States armed forces who is stationed outside of the state but who has no intent of changing residency retains resident status.
- (4) An individual does not lose residence if the individual goes into another state or other district of this state for temporary purposes with the intention of returning, unless the individual exercises the election franchise in the other state or district.
- (5) An individual may not gain a residence in a county if the individual comes in for temporary purposes without the intention of making that county the individual's home.
- (6) If an individual moves to another state with the intention of making it the individual's residence, the individual loses residence in this state.
- (7) The place where an individual's family resides is presumed to be that individual's place of residence. However, an individual who takes up or continues a residence at a place other than where the individual's family resides with the intention of remaining is a resident of the place where the individual resides.
- (8) A change of residence may be made only by the act of removal joined with intent to remain in another place.

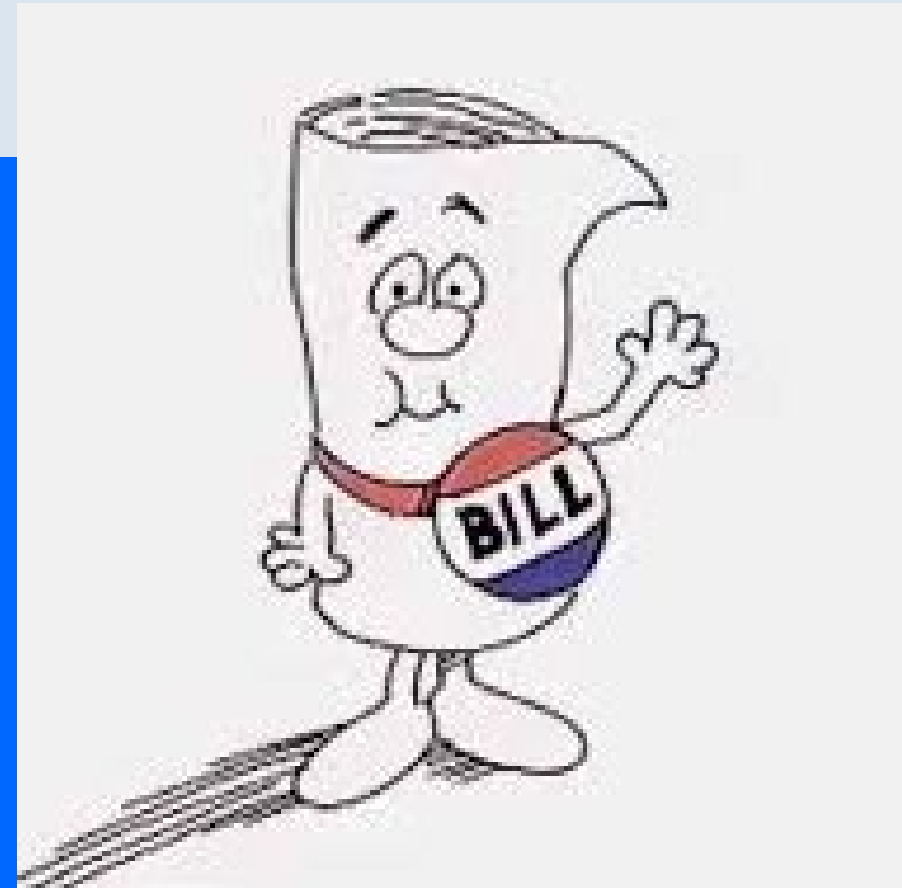


HB 413 (2025)

HB 413 passed and signed by governor last May.

Amended subsection (5) of 13-1-112, MCA:

An individual may not gain a ~~residence~~ residency in a county or the state of Montana if the individual ~~comes in~~ relocates for temporary purposes, such as temporary work, training, or an educational program, without the intention of making that county or the state the individual's permanent home at the conclusion of the temporary work, training, or educational program.



Order Granting Preliminary Injunction of HB 413



- Order granted February 13, 2026
- Likely to succeed on the merits for violation of the right to suffrage, equal protection, and vagueness under the constitution
- Heightened residency requirement by the inclusion of “permanent” home
 - “permanent” not defined in bill
 - court distinguishes permanency as required in HB 413 and permanency as required in definition of “domicile”
 - present intent vs. future intent



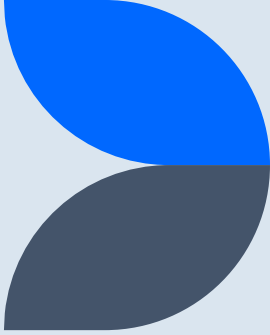
U.S. Vote Foundation

Usvotefoundation.org

Nonprofit organization aimed at assisting all Americans register to vote and stay active in electoral process.

- Provides comprehensive, state-by-state voter eligibility requirements
 - All states listed refer to residency – only one referred to domicile, New Hampshire, based on state constitution requiring “domicile” and not residency
 - All states listed allow student residents to vote

Takeaways



- Under the dictionary legal definitions, residency and domicile have different meanings
- Residency and domicile are particularly defined throughout the MCA and tailored for specific subject matter
- Montana Constitution uses “residence,” not “domicile” for voting rights
- Therefore, Title 13 uses “residence,” not “domicile”
- Statutory definition for “residence” in Title 13 has similar elements as the legal dictionary definition of “domicile”
- Courts will use the definitions of terms provided in statute, not the dictionary meaning. Section 1-2-106, MCA; Est. of Athy v. Evi Kalispell, LLC, 2026 MT 3, 426 Mont. 20.
- “Residence” is the term overwhelmingly used in determining states’ voter eligibility, not domicile