

HOUSE BILL NO. 695

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TEMPORARY RESTRAINING ORDER LAW; REVISING THE STANDARD FOR TEMPORARY RESTRAINING ORDERS AGAINST THE STATE AND ITS SUBDIVISIONS; PROVIDING A DEFINITION; AND AMENDING SECTION 27-19-315, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-19-315, MCA, is amended to read:

"27-19-315. When restraining order may be granted without notice. A-(1) Except as provided in subsection (2), a temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if:

(1)(a) it clearly appears from specific facts shown by affidavit or by the verified complaint that a delay would cause immediate and irreparable injury to the applicant before the adverse party or the party's attorney could be heard in opposition; and

(2)(b) the applicant or the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give notice and the reasons supporting the applicant's claim that notice should not be required.

(2) If the state, the state's departments, agencies, or political subdivisions, or officers of the state or a political subdivision acting in their official capacities are the adverse party, a temporary restraining order may not be granted unless:

(a) notice could not be provided through no fault of the moving party; or

(b) the suit is brought pursuant to Title 40.

(3) As used in this section, "political subdivision" has the meaning provided in 2-9-101."

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