

SENATE BILL NO. 20

INTRODUCED BY M. HALLIGAN

BY REQUEST OF THE LAW, JUSTICE, AND INDIAN AFFAIRS INTERIM COMMITTEE

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A BILL FOR AN ACT ENTITLED: "AN ACT CODIFYING THE FAMILY LAW EXCEPTION TO THE APPEAL OF CONTEMPT JUDGMENTS OR ORDERS; ALLOWING THE APPEAL OF A CONTEMPT JUDGMENT OR ORDER IN A FAMILY LAW PROCEEDING ONLY WHEN THE JUDGMENT OR ORDER APPEALED FROM INCLUDES AN ANCILLARY ORDER THAT AFFECTS THE SUBSTANTIAL RIGHTS OF THE PARTIES INVOLVED; AND AMENDING SECTION 3-1-523, MCA."

WHEREAS, in Lee v. Lee, 2000 MT 67, 996 P.2d 389, 57 St. Rep. 308 (2000), the Montana Supreme Court formally adopted the "family law" exception for appeals of contempt orders.

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

Section 1. Section 3-1-523, MCA, is amended to read:

"3-1-523. Judgment and orders in contempt cases final -- family law exception. (1) The judgment and orders of the court or judge made in cases of contempt are final and conclusive. ~~There~~ Except as provided in subsection (2), there is no appeal, but the action of a district court or judge can be reviewed on a writ of certiorari by the supreme court or a ~~judge~~ JUSTICE thereof of the supreme court and the action of a justice of the peace or other court of limited jurisdiction can be reviewed by the district court or judge of the county in which ~~such the~~ the justice or judge of ~~such the~~ the court of limited jurisdiction resides.

(2) A party may appeal a contempt judgment or order in a family law proceeding only when the judgment or order appealed from includes an ancillary order that affects the substantial rights of the parties involved."

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