

## SENATE BILL NO. 196

INTRODUCED BY WHEAT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE "GUS BARBER ANTISECRECY ACT";  
5 ~~PROHIBITING A COURT FROM ENTERING A JUDGMENT OR ORDER A FINAL ORDER OR JUDGMENT OR~~  
6 ~~WRITTEN FINAL SETTLEMENT AGREEMENT THAT CONCEALS A PUBLIC HAZARD OR CONCEALS~~  
7 ~~INFORMATION OR MATERIALS THAT WOULD BE USEFUL TO MEMBERS OF THE PUBLIC IN~~  
8 ~~PROTECTING THEMSELVES FROM INJURY THAT MAY RESULT FROM THE PUBLIC HAZARD;~~  
9 PROVIDING CERTAIN EXCEPTIONS; PROHIBITING AGREEMENTS OR CONTRACTS THAT CONCEAL  
10 INFORMATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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14 NEW SECTION. **Section 1. Concealment of public hazards prohibited -- concealment of**  
15 **information related to settlement or resolution of civil suits prohibited.** (1) This section may be cited as the  
16 "Gus Barber Antisecrecy Act".

17 (2) As used in this section, "public hazard" means ~~an instrumentality, including but not limited to any~~  
18 ~~A device, instrument, procedure, or MANUFACTURED product, or a condition of a device, instrument, procedure,~~  
19 ~~or MANUFACTURED product, that ENDANGERS PUBLIC SAFETY OR HEALTH AND~~ has caused ~~or is likely to cause~~ injury,  
20 as defined in 27-1-106.

21 (3) Except as provided in this section, a court may not enter ~~an~~ A FINAL order or judgment that has the  
22 purpose or effect of concealing a public hazard ~~or any information that is relevant to the protection of~~ THAT  
23 ~~ENDANGERS public health or safety.~~

24 (4) Any portion of a ~~court order or judgment or of a written agreement or contract~~ FINAL ORDER OR  
25 JUDGMENT ENTERED OR WRITTEN FINAL SETTLEMENT AGREEMENT entered into ~~pursuant to civil litigation~~ that has the  
26 purpose or effect of concealing a public hazard ~~or any information that is relevant to the protection of~~ THAT  
27 ~~ENDANGERS public health or safety~~ is contrary to public policy, is void, and may not be enforced. THIS SECTION  
28 DOES NOT PROHIBIT THE PARTIES FROM KEEPING THE MONETARY AMOUNT OF A WRITTEN FINAL SETTLEMENT AGREEMENT  
29 CONFIDENTIAL.

30 (5) A party to civil litigation may not request, as a condition to the production of discovery, that another

1 party stipulate to an order that would violate this section.

2 (6) This section does not apply to:

3 (a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected  
4 pursuant to Title 30, chapter 14, part 4;

5 (b) other information that is confidential under state or federal law; or

6 (c) a health care provider, as defined in 27-6-103:

7 ~~—— (i) developing or using professionally monitored experimental or investigational procedures; or~~

8 ~~—— (ii) providing care and treatment to patients in accordance with the applicable professional standards~~  
9 ~~of care.~~

10 (7) Any affected person, including but not limited to a representative of the news media, has standing  
11 to contest a ~~court order or judgment or an agreement or contract~~ FINAL ORDER OR JUDGMENT OR WRITTEN FINAL  
12 SETTLEMENT AGREEMENT that violates this section. ~~A person may contest a court order or judgment or an~~  
13 ~~agreement or contract that violates this section by motion in the court that entered the order or judgment or by~~  
14 ~~bringing a declaratory judgment action pursuant to Title 27, chapter 8~~ IN WHICH THE CASE WAS FILED.

15 (8) ~~Upon motion and good cause shown by a party attempting to prevent disclosure of information or~~  
16 ~~materials that have not previously been disclosed, including but not limited to alleged trade secrets, the~~ THE  
17 court shall examine the disputed information or materials in camera. If the court finds that the information or  
18 materials or portions of the information or materials consist of information concerning a public hazard ~~or~~  
19 ~~information that may be useful to members of the public in protecting themselves from injury that may result from~~  
20 ~~a public hazard~~, the court shall allow disclosure of the information or materials. If allowing disclosure, the court  
21 shall allow disclosure of only that portion of the information or materials necessary or useful to the public  
22 concerning the public hazard.

23 (9) THIS SECTION HAS NO APPLICABILITY TO A PROTECTIVE ORDER ISSUED UNDER RULE 26(C) OF THE MONTANA  
24 RULES OF CIVIL PROCEDURE OR TO ANY MATERIALS PRODUCED UNDER THE ORDER. ANY MATERIALS USED AS EXHIBITS  
25 MAY BE PUBLICLY DISCLOSED PURSUANT TO THE PROVISIONS OF SUBSECTIONS (7) AND (8).

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27 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
28 integral part of Title 2, chapter 6, part 1, and the provisions of Title 2, chapter 6, part 1, apply to [section 1].

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30 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

