

Amendments to Senate Bill No. 378  
1st Reading Copy

Requested by Senator Brent Cromley  
For the Senate Judiciary Committee

Prepared by Valencia Lane  
February 16, 2005 (3:52pm)

1. Page 1, line 11.  
**Following:** "insurance"  
**Strike:** "limits"  
**Insert:** "information"
  
2. Page 1, line 13.  
**Following:** "upon the"  
**Strike:** "parties against whom an action may be brought"  
**Insert:** "insurer of a potentially responsible party"
  
3. Page 1, line 14.  
**Following:** "and"  
**Strike:** "liability"  
**Following:** "any"  
**Insert:** "liability"
  
4. Page 1, line 16.  
**Following:** "the"  
**Strike:** "parties"  
**Insert:** "party"
  
5. Page 1, line 17.  
**Following:** line 16  
**Insert:** "(2) The request must be signed by the attorney for the requesting party, or by the requesting party if unrepresented, and must include a statement that:  
    (a) the request is made for the purpose of evaluating a claim for personal injury or death;  
    (b) to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the claim is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and  
    (c) the request is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation."  
**Renumber:** subsequent subsection
  
6. Page 1, line 17.  
**Following:** "The"

(OVER)

**Strike:** "parties against whom a claim is alleged".  
**Insert:** "insurer"

7. Page 1, line 18.  
**Following:** "within"  
**Strike:** "15"  
**Insert:** "45"

8. Page 1, line 19.  
**Following:** line 18  
**Strike:** the first "parties"  
**Insert:** "insurer"  
**Following:** "on the"  
**Strike:** "parties"  
**Insert:** "insurer"

9. Page 1, line 23.  
**Following:** line 22  
**Insert:** "(4) Disclosure of information by an insurer pursuant to subsection (1) must be made in accordance with the provisions of the Insurance Information and Privacy Protection Act, Title 33, chapter 19."

- END -

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BILL NO. 378

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INTRODUCED BY

(Primary Sponsor)

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CLAIMANT TO REQUEST AND RECEIVE A TORTFEASOR'S LIABILITY INSURANCE LIMITS BEFORE INITIATING LITIGATION; PROVIDING THAT IN ANY SUBSEQUENT LITIGATION, A COURT MAY IMPOSE SANCTIONS FOR FAILURE TO COMPLY WITH A PREFILING REQUEST; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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(11)

NEW SECTION. Section 1. Prefiling request for insurance <sup>information</sup> limits. (1) Prior to the filing of an action in district court to recover damages for personal injury or wrongful death, the claimant may at any time serve upon the <sup>insurer of a potentially responsible party</sup> ~~parties~~ against whom an action may be brought a request for a statement setting forth the existence of and <sup>liability</sup> ~~liability~~ limits of any insurance agreement that may be available to:

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(a) satisfy part or all of a judgment that may be entered in a subsequently filed action; or

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(b) indemnify or reimburse for payments made to satisfy a judgment against the <sup>party</sup> ~~parties~~.

(17)

(3)(2) The <sup>insurer</sup> ~~parties~~ against whom a claim is alleged shall reply with a responsive statement as to insurance

(18)

limits within <sup>45</sup> ~~18~~ days after service of the request. If a response is not served, the claimant, on notice to the

(19)

<sup>insurer</sup> ~~parties~~, may petition the court in which an action is subsequently filed to impose sanctions on the <sup>insurer</sup> ~~parties~~ for

failure to comply. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this section, an application for insurance may not be treated as part of an

insurance agree <sup>(4)</sup> subsection (1) must be made in accordance with the provisions of the Insurance Information and Privacy Protection Act, Title 33, chapter 19.

NEW SECTION. Section 2. ~~Council on Insurance Information and Privacy~~ intended to be codified as an integral part of Title 27, chapter 1, part 2, and the provisions of Title 27, chapter 1, part 2, apply to [section 1].

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

(2) The request must be signed by the attorney for the requesting party, or by the requesting party if unrepresented, and must include a statement that:

(a) the request is made for the purpose of evaluating a claim for personal injury or death;

(b) to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the claim is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(c) the request is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

insert  
(2)  
here

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