

HOUSE BILL NO. 435

INTRODUCED BY PARKER, EVERETT, STOKER, RASER, MCALPIN, CALLAHAN, CORDIER, THOMAS,
 RICE, HENDRICK, KOTTEL, POMNICHOWSKI, WILSON, SESSO, HENRY, DRISCOLL, PHILLIPS,
 ERICKSON, BECKER, HOLLENBAUGH, SANDS, FUREY, EBINGER, WILMER, COHENOUR, VILLA,
 HANDS, KEANE, O'HARA, HARRINGTON, HAMILTON, WISEMAN, NOONAN, CAMPBELL, WARD,
 REINHART, FRENCH, AUGARE, BERGREN

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING STATUTES REGARDING THE ABILITY OF A VICTIM
 OR DEPENDENT OF A DECEASED VICTIM TO RECOVER MONEY GAINED AS A DIRECT RESULT OF A
 HOMICIDE OR CERTAIN OTHER CRIMINAL OFFENSES; PROHIBITING CERTAIN PERSONS FROM SELLING
CONFIDENTIAL CRIMINAL JUSTICE INFORMATION AND PROVIDING A PENALTY; REVISING THE
 STATUTE OF LIMITATIONS FOR CERTAIN WRONGFUL DEATH ACTIONS; AMENDING SECTIONS 27-2-204
 AND 53-9-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 27-2-204, MCA, is amended to read:

"27-2-204. Tort actions -- general and personal injury. (1) Except as provided in 27-2-216 and
 27-2-217, the period prescribed for the commencement of an action upon a liability not founded upon an
 instrument in writing is within 3 years.

(2) The period prescribed for the commencement of an action to recover damages for the death of one
 caused by the wrongful act or neglect of another is within 3 years, except when the wrongful death is the result
of a homicide, in which case the period is within 10 years.

(3) The period prescribed for the commencement of an action for libel, slander, assault, battery, false
 imprisonment, or seduction is within 2 years."

Section 2. Section 53-9-104, MCA, is amended to read:

"53-9-104. Powers and duties of office. (1) The office shall:

- (a) adopt rules to implement this part;
- (b) prescribe forms for applications for compensation;

1 (c) determine all matters relating to claims for compensation; and

2 (d) require any person contracting directly or indirectly with an individual ~~formally charged with or~~

3 ~~convicted of a qualifying crime, OR WITH AN INDIVIDUAL HAVING UNIQUE KNOWLEDGE OF THE CRIME OR PREPARATION~~

4 ~~FOR THE CRIME~~, for any ~~rendition, interview, statement,~~ book, photograph, movie, television production, or play;

5 ~~or article relating to~~ prepared for a commercial purpose that is based directly upon the crime or for the sale of an

6 item OWNED OR OBTAINED BY AN INDIVIDUAL CONVICTED OF A QUALIFYING CRIME OR OBTAINED, produced, or gained

7 directly through unique knowledge about the crime or preparation for the crime to deposit any proceeds paid or

8 owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the

9 qualifying crime and any dependents of a deceased victim, ~~if the individual is convicted of the crime~~, to be held

10 for a period of time that the office may determine is reasonably necessary to perfect the claims of the victims or

11 dependents. Deposited proceeds may also be used to reimburse the office of state public defender, provided for

12 in 47-1-201, for costs associated with providing assigned counsel for the charged person. Each victim and

13 dependent of a deceased victim is entitled to actual and unreimbursed damages of all kinds or \$5,000, whichever

14 is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the state for any

15 public defender or any attorney assigned for the charged person must be deposited in the state general fund.

16 (2) The office may:

17 (a) request and obtain from prosecuting attorneys and law enforcement officers investigations and data

18 to enable the office to determine whether and the extent to which a claimant qualifies for compensation. A statute

19 providing confidentiality for a claimant's juvenile court records does not apply to proceedings under this part.

20 (b) request and obtain from a health care provider medical reports that are relevant to the physical

21 condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that

22 is relevant to expenses claimed by a claimant if the office has made reasonable efforts to obtain from the claimant

23 a release of the records or information. No civil or criminal liability arises from the release of information requested

24 under this subsection (2)(b).

25 (c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct

26 hearings, and receive relevant, nonprivileged evidence;

27 (d) take notice of judicially cognizable facts and general, technical, and scientific facts within its

28 specialized knowledge;

29 (e) require that law enforcement agencies and officials take reasonable care that victims be informed

30 about the existence of this part and the procedure for applying for compensation under this part; and

1 (f) establish a victims assistance coordinating and planning program."

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3 **NEW SECTION. SECTION 3. SALE OF CONFIDENTIAL CRIMINAL JUSTICE INFORMATION PROHIBITED -- PENALTY.**

4 (1) AN INDIVIDUAL CONVICTED OF A QUALIFYING CRIME, OR AN INDIVIDUAL HAVING UNIQUE KNOWLEDGE OF THE CRIME OR
5 PREPARATION FOR THE CRIME, MAY NOT SELL OR EXCHANGE CONFIDENTIAL CRIMINAL JUSTICE INFORMATION, AS DEFINED
6 IN 44-5-103.

7 (2) THE OFFICE SHALL REQUIRE THAT ANY FUNDS OBTAINED IN VIOLATION OF SUBSECTION (1) BE DEPOSITED INTO
8 THE ESCROW FUND, PROVIDED FOR IN 53-9-104, FOR THE BENEFIT OF A VICTIM OF A QUALIFYING CRIME, TO BE HELD AS
9 PROVIDED IN 53-9-104.

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11 **NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION. [SECTION 3] IS INTENDED TO BE CODIFIED AS AN**
12 **INTEGRAL PART OF TITLE 53, CHAPTER 9, PART 1, AND THE PROVISIONS OF TITLE 53, CHAPTER 9, PART 1, APPLY TO**
13 **[SECTION 3].**

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15 **NEW SECTION. Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
17 remains in effect in all valid applications that are severable from the invalid applications.

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19 **NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.**

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21 **NEW SECTION. Section 7. Applicability.** (1) [Section 1] applies to a death occurring after October 1,
22 2007.

23 (2) [Section 2] applies to a contract entered into after October 1, 2007.

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