

HOUSE BILL NO. 336

INTRODUCED BY C. KEOGH

1  
2  
3  
4 ABILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS ON TEMPORARY ORDERS FOR MAINTENANCE  
5 OR SUPPORT, TEMPORARY ORDERS FOR RELIEF, AND TEMPORARY AUTOMATIC DOMESTIC  
6 RELATIONS ORDERS IN DISSOLUTION OF MARRIAGE PROCEEDINGS; AMENDING SECTIONS 3-10-301,  
7 19-2-801, 27-19-201, 27-19-316, 40-4-105, 40-4-109, 40-4-121, AND 45-5-626, MCA; REPEALING SECTIONS  
8 40-4-122, 40-4-123, 40-4-124, AND 40-4-125, MCA; AND PROVIDING AN EFFECTIVE DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 **Section 1.** Section 3-10-301, MCA, is amended to read:

13 **"3-10-301. Civil jurisdiction.** (1) Except as provided in 3-11-103 and in subsection (2) of this section,  
14 the justices' courts have jurisdiction:

15 (a) in actions arising on contract for the recovery of money only if the sum claimed does not exceed  
16 \$12,000, exclusive of court costs and attorney fees;

17 (b) in actions for damages not exceeding \$12,000, exclusive of court costs and attorney fees, for taking,  
18 detaining, or injuring personal property or for injury to real property when no issue is raised by the verified answer  
19 of the defendant involving the title to or possession of the real property;

20 (c) in actions for damages not exceeding \$12,000, exclusive of court costs and attorney fees, for injury  
21 to the person, except that, in actions for false imprisonment, libel, slander, criminal conversation, seduction,  
22 malicious prosecution, determination of paternity, and abduction, the justice of the peace does not have  
23 jurisdiction;

24 (d) in actions to recover the possession of personal property if the value of the property does not exceed  
25 \$12,000;

26 (e) in actions for a fine, penalty, or forfeiture not exceeding \$12,000 imposed by a statute or an ordinance  
27 of an incorporated city or town when no issue is raised by the answer involving the legality of any tax, impost,  
28 assessment, toll, or municipal fine;

29 (f) in actions for a fine, penalty, or forfeiture not exceeding \$12,000 imposed by a statute or assessed  
30 by an order of a conservation district for violation of Title 75, chapter 7, part 1;



1 (g) in actions upon bonds or undertakings conditioned for the payment of money when the sum claimed  
2 does not exceed \$12,000, though the penalty may exceed that sum;

3 (h) to take and enter judgment for the recovery of money on the confession of a defendant when the  
4 amount confessed does not exceed \$12,000, exclusive of court costs and attorney fees;

5 (i) to issue ~~temporary restraining orders, as provided in 40-4-121, and orders of protection;~~ as provided  
6 in Title 40, chapter 15;

7 (j) to issue orders to restore streams under Title 75, chapter 7, part 1, or to require payment of the actual  
8 cost for restoration of a stream if the restoration does not exceed \$12,000.

9 (2) Justices' courts do not have jurisdiction in civil actions that might result in a judgment against the  
10 state for the payment of money."

11

12 **Section 2.** Section 19-2-801, MCA, is amended to read:

13 **"19-2-801. Designation of beneficiary.** (1) In the absence of any statutory beneficiaries, designated  
14 beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the  
15 benefit of natural living persons that the member or payment recipient designates on the membership form  
16 provided by the board.

17 (2) Unless otherwise provided by this title or by a valid ~~temporary restraining~~ order issued pursuant to  
18 40-4-121 or Title 40, chapter 15, a member or payment recipient may revoke the designation and name different  
19 designated beneficiaries by filing with the board a new membership form provided by the board.

20 (3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the  
21 person shall complete a new membership form and file it as provided in subsection (2). However, until the new  
22 membership form is filed, the board shall reference the membership form executed by the person prior to initial  
23 termination of membership for the same purposes as prior to termination. Beneficiaries designated on that  
24 membership form continue to be beneficiaries until the new membership form is filed.

25 (4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent  
26 membership form filed with the board is effective for all purposes until the member retires.

27 (b) A member may elect to either override or retain the member's existing beneficiary designation when  
28 completing a membership form for temporary or secondary employment with another employer within the same  
29 Title 19 retirement system.

30 (c) When a member retires, the designated beneficiaries or contingent annuitants named on the

1 retirement application become effective.

2 (5) If a statutory or designated beneficiary predeceases the member or payment recipient, the  
3 predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts  
4 proportional to each remaining statutory or designated beneficiary's original share.

5 (6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member  
6 or payment recipient will be considered, with respect to that interest, as having predeceased the member or  
7 payment recipient.

8 (7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501,  
9 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant's interest in the payment rights of  
10 the member."

11

12 **Section 3.** Section 27-19-201, MCA, is amended to read:

13 **"27-19-201. When preliminary injunction may be granted.** An injunction order may be granted in the  
14 following cases:

15 (1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the  
16 relief consists in restraining the commission or continuance of the act complained of, either for a limited period  
17 or perpetually;

18 (2) when it appears that the commission or continuance of some act during the litigation would produce  
19 a great or irreparable injury to the applicant;

20 (3) when it appears during the litigation that the adverse party is doing or threatens or is about to do or  
21 is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of the  
22 action, and tending to render the judgment ineffectual;

23 (4) when it appears that the adverse party, during the pendency of the action, threatens or is about to  
24 remove or to dispose of the adverse party's property with intent to defraud the applicant, an injunction order may  
25 be granted to restrain the removal or disposition; or

26 (5) when it appears that the applicant has applied for an order under the provisions of ~~40-4-121~~ or an  
27 order of protection under Title 40, chapter 15."

28

29 **Section 4.** Section 27-19-316, MCA, is amended to read:

30 **"27-19-316. Contents and filing of restraining order granted without notice.** Each temporary

1 restraining order granted without notice must:

2 (1) be endorsed with the date and hour of its issuance;

3 (2) be filed immediately in the clerk's office and entered in the record;

4 (3) define the injury and state why the injury is irreparable and why the order was granted without notice;

5 and

6 (4) except as provided in ~~40-4-121~~ or Title 40, chapter 15, expire by its terms within the time after entry,  
7 not to exceed 10 days, as the court or judge fixes."  
8

9 **Section 5.** Section 40-4-105, MCA, is amended to read:

10 **"40-4-105. Procedure -- commencement -- pleadings -- abolition of existing defenses.** (1) The  
11 verified petition in a proceeding for dissolution of marriage or legal separation must allege that the marriage is  
12 irretrievably broken and must set forth:

13 (a) the age, occupation, and residence of each party and the party's length of residence in this state;

14 (b) the date of the marriage and the place at which it was registered;

15 (c) that the jurisdictional requirements of 40-4-104 exist and that the marriage is irretrievably broken in  
16 that either:

17 (i) the parties have lived separate and apart for a period of more than 180 days preceding the  
18 commencement of this proceeding; or

19 (ii) there is serious marital discord that adversely affects the attitude of one or both of the parties towards  
20 the marriage, and there is no reasonable prospect of reconciliation;

21 (d) the names, ages, and addresses of all living children of the marriage and whether the wife is  
22 pregnant;

23 (e) any arrangements as to support of the children and maintenance of a spouse;

24 (f) a proposed parenting plan, if applicable; ~~and~~

25 (g) the relief sought; and

26 (h) the petitioner's acknowledgment that the temporary automatic domestic relations order provided for  
27 in 40-4-121(4) applies to the petitioner upon filing of the petition with the clerk of the district court.

28 (2) Either or both parties to the marriage may initiate the proceeding.

29 (3) If a proceeding is commenced by one of the parties, the other party must be served in the manner  
30 provided by the Montana Rules of Civil Procedure and may within 21 days after the date of service file a verified

1 response. A decree may not be entered until 21 days after the date of service.

2 (4) Previously existing defenses to divorce and legal separation, including but not limited to condonation,  
3 connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

4 (5) The court may join additional parties proper for the exercise of its authority to implement this chapter.

5 [(6) The social security number, if known, of a person subject to a decree of dissolution or a support  
6 order must be recorded in the records relating to the matter. The social security number may be included in the  
7 state case registry and vital statistics reporting form filed pursuant to 40-5-908(1). The recordkeeper shall keep  
8 the social security number from this source confidential, except that the number may be provided to the  
9 department of public health and human services for use in administering Title IV-D of the Social Security Act.]

10 (7) Documents filed before the court containing financial account information must comply with the  
11 privacy protection requirements of Rule 5.2 of the Montana Rules of Civil Procedure. (Bracketed language  
12 terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999; sec. 12, Ch. 88, L. 2013.)"

13

14 **Section 6.** Section 40-4-109, MCA, is amended to read:

15 **"40-4-109. Independence of provisions of decree or temporary order.** If a party fails to comply with  
16 a provision of a decree ~~or temporary order or injunction~~, interim parenting plan, temporary order, or temporary  
17 automatic domestic relations order, the obligation of the other party to make payments for support or maintenance  
18 or to permit parental contact with the child is not suspended but the party may move the court to grant an  
19 appropriate order."

20

21 **Section 7.** Section 40-4-121, MCA, is amended to read:

22 **"40-4-121. Temporary order for maintenance or support, temporary injunction, ~~or temporary~~**  
23 **~~restraining order~~ order for relief, or temporary automatic domestic relations order.** (1) In a proceeding for  
24 dissolution of marriage or for legal separation or in a proceeding for disposition of property or for maintenance  
25 or support following dissolution of the marriage by a court that lacked personal jurisdiction over the absent  
26 spouse, either party may move for temporary maintenance, temporary support of a child of the marriage entitled  
27 to support, or a temporary family support order: as follows:

28 (a) When a party is receiving public assistance, as defined in 40-5-201, for the minor children at issue  
29 or when a party receives public assistance during the life of a temporary family support order, the temporary  
30 family support order must designate separately the amounts of temporary child support and temporary

1 maintenance, if any.

2 (b) The temporary child support order or the designated child support portion of the family support order  
3 must be determined as required in 40-4-204.

4 (c) The motion must be accompanied by an affidavit setting forth the factual basis for the motion, the  
5 amounts requested, a list of marital estate liabilities, a statement of sources of income of the parties and of a child  
6 of the marriage entitled to support, and, in the case of a motion for a temporary family support order, a proposal  
7 designating the party responsible for paying each liability.

8 (d) On the basis of the showing made and in conformity with 40-4-203 and 40-4-204, the court may issue  
9 an order for temporary maintenance, temporary child support, or temporary family support in amounts and on  
10 terms just and proper under the circumstances.

11 (e) If ordered by a court, a temporary family support order must, without prejudice, direct one or both  
12 parties to pay, out of certain income sources, liabilities of the marital estate during the pendency of the action,  
13 including maintenance liabilities for a party or support of a child of the marriage entitled to support.

14 (f) If income sources are insufficient to meet the marital estate periodic liabilities, the temporary family  
15 support order may direct that ~~certain liabilities be paid from assets of the marital estate~~ assets be liquidated to  
16 pay certain liabilities.

17 (g) At any time during the proceedings, the court may order any temporary family support payments to  
18 be designated as temporary maintenance, temporary child support, or partial property distribution, retroactive to  
19 the date of the motion for a temporary family support order.

20 (h) When a party obtains public assistance, as defined in 40-5-201, or applies for services under Title  
21 IV-D of the Social Security Act, after the court has issued a temporary family support order, the petitioner in the  
22 administrative action shall promptly move the court for designation of the parts, if any, of the temporary family  
23 support order that are maintenance and child support and the court shall promptly so designate, determining the  
24 child support obligation as required in 40-4-204.

25 (2) As a part of a motion ~~for temporary maintenance, temporary support of a child, or a temporary family~~  
26 ~~support order~~ under subsection (1) or by independent motion accompanied by affidavit, either party may request  
27 that the court issue ~~a temporary injunction~~ an order after hearing for any of the following relief, if just and proper  
28 under the circumstances:

29 (a) ~~restraining a person from transferring, encumbering, concealing, or otherwise disposing of any~~  
30 ~~property, except in the usual course of business or for the necessities of life, and if so restrained, requiring the~~

1 person to notify the moving party of any proposed extraordinary expenditures made after the order is issued  
 2 (a) governing contact between the parties or between a party and a child, except that the court may  
 3 without hearing limit contact between the parties to text, e-mail, or other electronic or written means;  
 4 ~~(b) restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or~~  
 5 ~~changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability~~  
 6 ~~coverage held for the benefit of a party or a child of a party for whom support may be ordered;~~  
 7 ~~——(c) enjoining a party from molesting or disturbing the peace of the other party or of any family member~~  
 8 ~~or from stalking, as defined in 45-5-220;~~  
 9 ~~(d)(b) excluding a party from the family home or from the home of the other party upon a showing that~~  
 10 ~~physical or emotional harm would otherwise result of justifiable circumstances;~~  
 11 ~~(e)(c) enjoining a party from removing a child child's residence from the jurisdiction of the court;~~  
 12 ~~(f)(d) ordering a party to complete counseling, including alcohol or chemical dependency counseling or~~  
 13 ~~treatment; or~~  
 14 ~~(g)(e) providing other injunctive relief proper in the circumstances; and~~  
 15 ~~——(h) providing additional relief available under Title 40, chapter 15.~~  
 16 ~~(3) When the clerk of the district court issues a summons pursuant to this chapter, the clerk shall issue~~  
 17 ~~and include with the summons a temporary restraining order~~  
 18 (3) The parties may waive the right to a hearing or stipulate to any relief provided for in subsection (2).  
 19 (4) Upon the filing of a petition for declaration of invalidity, a petition for dissolution of marriage, or a  
 20 petition for legal separation, the clerk of the district court shall issue a summons and include with the summons  
 21 a temporary automatic domestic relations order that provides as follows:  
 22 ~~(a) restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way~~  
 23 ~~disposing of any property, real or personal, whether jointly or separately held, without either the consent of the~~  
 24 ~~other party or an order of the court, except in the usual course of business or for the necessities of life. The~~  
 25 ~~restraining order must require each party to notify the other party of any proposed extraordinary expenditures at~~  
 26 ~~least 5 business days before incurring the expenditures and to account to the court for all extraordinary~~  
 27 ~~expenditures made after service of the summons. However, the restraining order may not preclude either party~~  
 28 ~~from using any property to pay reasonable attorney fees in order to retain counsel in the proceeding.~~  
 29 ~~——(b) restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or~~  
 30 ~~changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability~~

1 coverage held for the benefit of a party or a child of a party for whom support may be ordered. However, nothing  
 2 in this subsection (3) adversely affects the rights, title, or interest of a purchaser, encumbrancer, or lessee for  
 3 value if the purchaser, encumbrancer, or lessee does not have actual knowledge of the restraining order.

4 "TEMPORARY AUTOMATIC DOMESTIC RELATIONS ORDER"

5 It is hereby ordered:

6 (a) The parties are restrained from transferring, encumbering, concealing, or in any way disposing of,  
 7 without the written consent of the other party or an order of the court, any marital property, except:

8 (i) for expenses necessary to reasonably maintain the marital standard of living or for the necessities of  
 9 life, such as food, clothing, shelter, necessary health care expenses, transportation to and from work, and child  
 10 care, taking into consideration additional living expenses arising out of a party obtaining a second household and  
 11 current available income;

12 (ii) in the customary and usual course of operating an existing business; or

13 (iii) for the purpose of paying a reasonable amount for professional fees and costs relating to a  
 14 proceeding under chapter 1, part 4, or under chapter 4 or chapter 15.

15 (b) Each party shall file a notice with the court of any proposed extraordinary expenditure, proposed  
 16 revocation of a nonprobate transfer, or proposed elimination of a right of survivorship to property at least 14 days  
 17 before the action is taken. The notice must include the proposed action and when the action is intended to occur,  
 18 how the proposed action may impact the marital estate, and why the proposed action is necessary at this time.  
 19 The notice is not sufficient unless it contains the following statement: "The moving party's proposed action will  
 20 be permitted without further proceedings or order of the court unless within 14 days of the date of filing of the  
 21 notice you file with the court, and serve on all persons entitled to notice, a response objecting to the proposed  
 22 action, stating the reasons for your objection." If the other party files an objection to the proposed action before  
 23 the expiration of the 14-day period, the party proposing to take the action is prohibited from taking the proposed  
 24 action until the court rules on the proposed action. The burden of justifying the proposed action is on the party  
 25 proposing the action. The court may award reasonable attorney fees if a party makes an unreasonable request  
 26 for or an unreasonable objection to the proposed action. A "nonprobate transfer" means an instrument, other than  
 27 a will, that makes a transfer of property on death, including a revocable trust, a pay on death account in a financial  
 28 institution, a transfer on death registration of personal property, or a revocable real property beneficiary deed.

29 (c) The parties are restrained from:

30 (i) canceling jointly held credit cards or terminating signatory authority of the other party on a credit card;

- 1           (ii) incurring unreasonable debt hereafter, including but not limited to further borrowing against any credit  
2 line secured by the family residence, further encumbrancing of any assets, or unreasonably using credit cards  
3 or cash advances against credit cards, except as provided for in subsections (a)(i) through (a)(iii) or subsection  
4 (b) above;
- 5           (iii) except as allowed by subsections (a)(i) through (a)(iii) or subsection (b), making any withdrawal for  
6 any purpose or borrowing from any deferred compensation, retirement, profit-sharing, pension, death, or other  
7 employee benefit plan or employee savings plan or from any individual retirement account or Keogh account;
- 8           (iv) except as allowed by subsections (a)(i) through (a)(iii) or subsection (b), withdrawing or borrowing  
9 in any manner all or any part of the cash surrender value of any life insurance policies on either party or any of  
10 their children;
- 11           (v) changing or in any manner altering the beneficiary designation on any life insurance policies on either  
12 party or their children or changing or in any manner altering the beneficiary on any other account or asset;
- 13           (vi) canceling, altering, or allowing to lapse any existing property, life, automobile, or health insurance  
14 policies insuring the parties' or children's property or persons;
- 15           (vii) negotiating any instrument, check, draft, income tax refund, insurance payment, or dividends  
16 payable jointly to the parties or individually to the other party without the personal signature or prior written  
17 consent of the other party;
- 18           (viii) opening, diverting, or withholding mail addressed to the other party, except, however, neither party  
19 may be prohibited from opening mail addressed to both parties or filing a notice of change of his or her individual  
20 mailing address; and
- 21           (ix) without objectively reasonable justification, intentionally or knowingly damaging or destroying the  
22 property of the parties, or of either party, during the pendency of this action, specifically including but not limited  
23 to any electronically stored materials, electronic communications, or financial records, without order of the court  
24 or written consent of the other party.
- 25           (d) Unless otherwise ordered by the court, neither party is restrained from:
- 26           (i) creating, modifying, or revoking a will;
- 27           (ii) revoking or changing a power of attorney; or
- 28           (iii) creating an unfunded revocable or irrevocable trust.
- 29           (e) This order does not adversely affect the rights, title, or interest of a purchaser, encumbrancer, or  
30 lessee for value if the purchaser, encumbrancer, or lessee does not have actual knowledge of this order.

1 (f) The court may expand, limit, modify, or revoke this order, and nothing prevents either party from  
2 requesting such relief. Furthermore, the parties, with joint agreement, may waive in writing some or all of the  
3 provisions of this order.

4 (g) The parties shall serve preliminary financial disclosures within 60 days of service of the petition for  
5 dissolution, declaration of invalidity of marriage, or legal separation pursuant to 40-4-252.

6 (h) This order is binding on the petitioner upon filing of the petition, and this order is binding on the  
7 respondent upon service of the petition.

8 (i) In issuing any temporary orders or in a final decree, the court may consider any action taken by the  
9 petitioner within a reasonable time prior to filing of the petition that would otherwise have constituted a violation  
10 of this order had this order been issued at the time.

11 (j) Except as otherwise ordered by the court, this order is dissolved upon dismissal of the action or  
12 granting of the declaration of invalidity, dissolution of marriage, legal separation, or other final order."

13 ~~(4) A person may seek the relief provided for in subsection (2) without filing a petition under this part for~~  
14 ~~a dissolution of marriage or legal separation by filing a verified petition requesting relief under Title 27, chapter~~  
15 ~~19, part 3. Any temporary injunction entered under this subsection must be for a fixed period of time, not to~~  
16 ~~exceed 1 year, and may be modified as provided in Title 27, chapter 19, part 4, and 40-4-208, as appropriate.~~

17 ~~(5) The court may issue a temporary restraining order for a period not to exceed 21 days without~~  
18 ~~requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that~~  
19 ~~irreparable injury will result to the moving party if an order is not issued until the time for responding has elapsed.~~

20 ~~————(6) The party against whom a temporary injunction is sought must be served with notice and a copy of~~  
21 ~~the motion and is entitled to a hearing on the motion. A response may be filed within 21 days after service of~~  
22 ~~notice of motion or at the time specified in the temporary restraining order.~~

23 ~~————(7) At the time of the hearing, the court shall:~~

24 ~~————(a) inform both parties that the temporary injunction may contain a provision or provisions that limit the~~  
25 ~~rights of one or both parties relating to firearms under state law or a provision or provisions that may subject one~~  
26 ~~or both parties to state or federal laws that limit their rights relating to firearms; and~~

27 ~~————(b) determine whether good cause exists for the injunction to continue for 1 year.~~

28 ~~————(8) On the basis of the showing made and in conformity with 40-4-203 and 40-4-204, the court may issue~~  
29 ~~a temporary injunction and an order for temporary maintenance, temporary child support, or temporary family~~  
30 ~~support in amounts and on terms just and proper in the circumstance.~~

- 1 ~~\_\_\_\_\_ (9) A temporary order or injunction, entered pursuant to Title 40, chapter 15, or this section:~~  
 2 ~~\_\_\_\_\_ (a) may be revoked or modified on a showing by affidavit of the facts necessary to revocation or~~  
 3 ~~modification of a final decree under 40-4-208;~~  
 4 ~~\_\_\_\_\_ (b) terminates upon order of the court or when the petition is voluntarily dismissed and, in the case of~~  
 5 ~~a temporary family support order, upon entry of the decree of dissolution; and~~  
 6 ~~\_\_\_\_\_ (c) when issued under this section, must conspicuously bear the following: "Violation of this order is a~~  
 7 ~~criminal offense under 45-5-220 or 45-5-626."~~  
 8 ~~\_\_\_\_\_ (10) When the petitioner has fled the parties' residence, notice of the petitioner's new residence must be~~  
 9 ~~withheld except by order of the court for good cause shown.~~
- 10 (5) Nothing in this section precludes either party from applying to the court for further temporary orders  
 11 to expand, limit, modify, or revoke an order entered under this section.
- 12 (6) Nothing in this section prevents a party from seeking an order of protection under Title 40, chapter  
 13 15, either as part of an action filed under this chapter or in a separate action. A violation of an order of protection  
 14 granted under the authority and standards in Title 40, chapter 15, as part of an action under this chapter is a  
 15 criminal offense to the same extent as it would be if the order had been issued in a separate action. Nothing in  
 16 this section prevents a party from seeking relief under Title 27, chapter 19, either in an action filed under this  
 17 chapter or in a separate action.
- 18 (7) Unless otherwise ordered by the court, an order issued under this section is dissolved upon dismissal  
 19 of the action or granting of the declaration of invalidity, dissolution of marriage, legal separation, or other final  
 20 order.
- 21 ~~(44)(8)~~ (8) The clerk of the court shall seal any qualified domestic relations order, as defined in section  
 22 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p), that is issued under this part except for access by the  
 23 pension plan administrator of the plan for which benefits are being distributed by the order, the child support  
 24 enforcement division, the parties, and each party's counsel of record."

25

26 **Section 8.** Section 45-5-626, MCA, is amended to read:

27 **"45-5-626. Violation of order of protection.** (1) Except as provided in 50-32-609, a person commits  
 28 the offense of violation of an order of protection if the person, with knowledge of the order, purposely or knowingly  
 29 violates a provision of ~~any order provided for in 40-4-121~~ or an order of protection under Title 40, chapter 15. It  
 30 may be inferred that the defendant had knowledge of an order at the time of an offense if the defendant had been

1 served with the order before the time of the offense. Service of the order is not required upon a showing that the  
2 defendant had knowledge of the order and its content.

3 (2) Only the respondent under an order of protection may be cited for a violation of the order. The  
4 petitioner who filed for an order of protection may not be cited for a violation of that order of protection.

5 (3) An offender convicted of violation of an order of protection shall be fined not to exceed \$500 or be  
6 imprisoned in the county jail for a term not to exceed 6 months, or both, for a first offense. Upon conviction for  
7 a second offense, an offender shall be fined not less than \$200 and not more than \$500 and be imprisoned in  
8 the county jail not less than 24 hours and not more than 6 months. Upon conviction for a third or subsequent  
9 offense, an offender shall be fined not less than \$500 and not more than \$2,000 and be imprisoned in the county  
10 jail or state prison for a term not less than 10 days and not more than 2 years."

11  
12 **NEW SECTION. Section 9. Repealer.** The following sections of the Montana Code Annotated are  
13 repealed:

- 14 40-4-122. Forms -- distribution -- filing.  
15 40-4-123. Jurisdiction and venue.  
16 40-4-124. Review or removal -- district court.  
17 40-4-125. Registration of orders.

18  
19 **NEW SECTION. Section 10. Notification to the Montana supreme court.** The secretary of state shall  
20 send a copy of [this act] to the Montana supreme court. The Montana supreme court is requested to update the  
21 references to the repealed sections of [this act] in the Montana Uniform Municipal Court Rules of Appeal to  
22 District Court.

23  
24 **NEW SECTION. Section 11. Effective date.** [This act] is effective October 1, 2019.

25 - END -