

HOUSE BILL NO. 327  
INTRODUCED BY HARRIS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT, EXCEPT IN CERTAIN CASES, THE PUBLIC HAS A RIGHT TO KNOW THE CONTENTS OF DOCUMENTS IN A CIVIL ACTION, ~~INCLUDING THE CONTENTS OF A SETTLEMENT AGREEMENT THAT RELATE TO A PUBLIC HAZARD;~~ AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Right to examine documents in civil actions THAT RELATE TO PUBLIC HAZARD, including settlement agreements DISCOVERY DOCUMENTS -- exceptions. (1) The legislature declares that pleadings, motions, and other documents filed in civil actions are generally public documents ~~filed in proceedings that are open to the public~~ and that the public has the right under the state constitution to examine documents of all public bodies and agencies of the state government and its subdivisions, including courts, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure. THE PUBLIC HAS A SIGNIFICANT INTEREST IN PUBLIC HAZARDS. A PUBLIC HAZARD IS A DECEPTIVE FINANCIAL PRACTICE, HAZARDOUS SUBSTANCE, OR PRODUCT THAT HAS CAUSED OR IS LIKELY TO CAUSE INJURY AS DEFINED IN 27-1-106.

(2) ~~(A) Except as provided in subsection (3), a document FILED in a civil action, including a document setting forth a settlement, OR A DOCUMENT OBTAINED THROUGH DISCOVERY is a public document and is open to the public for inspection IF THE DOCUMENT RELATES TO A PUBLIC HAZARD. Neither a party nor the court or any other person or entity may prevent~~

(B) A COURT MAY NOT ENTER AN ORDER THAT PREVENTS the public from exercising its right to examine a document REFERRED TO IN SUBSECTION (2)(A) by keeping the document secret, sealing the court record, or in any other manner preventing or hindering public inspection of a document IF THE ORDER HAS THE PURPOSE OR EFFECT OF CONCEALING A PUBLIC HAZARD.

(C) A WRITTEN AGREEMENT OR CONTRACT THAT IS ENTERED INTO PURSUANT TO CIVIL LITIGATION AND THAT HAS THE PURPOSE OR EFFECT OF CONCEALING A PUBLIC HAZARD IS CONTRARY TO PUBLIC POLICY AND IS VOID AND MAY NOT BE ENFORCED.

(3) Subsection (2) does not apply to a document, including a ~~settlement agreement~~ DISCOVERY DOCUMENT:

(A) CONCERNING A TRADE SECRET, AS DEFINED IN 30-14-402, THAT IS NOT PERTINENT TO A PUBLIC HAZARD;

(B) RELATING TO CHILD CUSTODY, ESTABLISHMENT OF PATERNITY, PROTECTION OF A CHILD UNDER TITLE 42, PROTECTION OF AN ELDERLY OR DEVELOPMENTALLY DISABLED PERSON FROM ABUSE OR NEGLECT UNDER TITLE 52, CHAPTER 3, OR INVOLUNTARY COMMITMENT OF A PERSON ALLEGED TO BE SERIOUSLY DEVELOPMENTALLY DISABLED, SUFFERING FROM A MENTAL DISORDER, OR AN ALCOHOLIC;

(C) CONCERNING OTHER INFORMATION THAT IS CONFIDENTIAL UNDER STATE OR FEDERAL LAW;

~~(a)~~(D) in a proceeding relating to termination of marriage, separation, or a contested probate of an estate;

or

~~(b)~~(E) if the court specifically finds, upon a person's or entity's request to examine a document, that the demand of individual privacy of a party to the action or a person or entity referred to in a ~~settlement agreement~~ or other document clearly exceeds the merits of public disclosure.

NEW SECTION. SECTION 2. APPLICABILITY. [THIS ACT] APPLIES TO CASES FILED AFTER [THE EFFECTIVE DATE OF THIS ACT].

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