

1 SENATE BILL NO. 26

2 INTRODUCED BY A. BLEWETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A TEMPORARY ORDER OF PROTECTION
5 CONTAIN A WARNING THAT A VIOLATION OF THE ORDER IS A CRIMINAL OFFENSE; AND AMENDING
6 SECTION 40-15-201, MCA."

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

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10 **Section 1.** Section 40-15-201, MCA, is amended to read:

11 **"40-15-201. Temporary order of protection.** (1) A petitioner may seek a temporary order of protection
12 from a court listed in 40-15-301. The petitioner shall file a sworn petition that states that the petitioner is in
13 reasonable apprehension of bodily injury or is a victim of one of the offenses listed in 40-15-102, has a
14 relationship to the respondent if required by 40-15-102, and is in danger of harm if the court does not issue a
15 temporary order of protection immediately.

16 (2) Upon a review of the petition and a finding that the petitioner is in danger of harm if the court does
17 not act immediately, the court shall issue a temporary order of protection that grants the petitioner appropriate
18 relief. The temporary order of protection may include any or all of the following orders:

19 (a) prohibiting the respondent from threatening to commit or committing acts of violence against the
20 petitioner and any designated family member;

21 (b) prohibiting the respondent from harassing, annoying, disturbing the peace of, telephoning, contacting,
22 or otherwise communicating, directly or indirectly, with the petitioner, any named family member, any other victim
23 of this offense, or a witness to the offense;

24 (c) prohibiting the respondent from removing a child from the jurisdiction of the court;

25 (d) directing the respondent to stay 1,500 feet or other appropriate distance away from the petitioner,
26 the petitioner's residence, the school or place of employment of the petitioner, or any specified place frequented
27 by the petitioner and by any other designated family or household member;

28 (e) removing and excluding the respondent from the residence of the petitioner, regardless of ownership
29 of the residence;

30 (f) prohibiting the respondent from possessing or using the firearm used in the assault;

1 (g) prohibiting the respondent from transferring, encumbering, concealing, or otherwise disposing of any
2 property except in the usual course of business or for the necessities of life and, if so restrained, requiring the
3 respondent to notify the petitioner, through the court, of any proposed extraordinary expenditures made after the
4 order is issued;

5 (h) directing the transfer of possession and use of the residence, an automobile, and other essential
6 personal property, regardless of ownership of the residence, automobile, or essential personal property, and
7 directing an appropriate law enforcement officer to accompany the petitioner to the residence to ensure that the
8 petitioner safely obtains possession of the residence, automobile, or other essential personal property or to
9 supervise the petitioner's or respondent's removal of essential personal property;

10 (i) directing the respondent to complete violence counseling, which may include alcohol or chemical
11 dependency counseling or treatment, if appropriate;

12 (j) directing other relief considered necessary to provide for the safety and welfare of the petitioner or
13 other designated family member.

14 (3) If the petitioner has fled the parties' residence, notice of the petitioner's new residence must be
15 withheld, except by order of the court for good cause shown.

16 (4) The court may, without requiring prior notice to the respondent, issue an immediate temporary order
17 of protection for up to 20 days if the court finds, on the basis of the petitioner's sworn petition or other evidence,
18 that harm may result to the petitioner if an order is not issued before the 20-day period for responding has
19 elapsed.

20 (5) A temporary order of protection issued pursuant to this section must conspicuously bear the following:
21 "Violation of this order is a criminal offense under 45-5-626 and may also be a criminal offense under 45-5-220."

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