

HOUSE BILL NO. 246

INTRODUCED BY L. GALLOWAY

1
2
3
4 ABILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS FOR OUT-OF-STATE SUBPOENAS; REQUIRING
5 30 DAYS' NOTICE FOR EFFECTIVE SERVICE OF OUT-OF-STATE PROCESS WITHIN MONTANA; AND
6 PROVIDING FOR COMPENSATORY DAMAGES IN CERTAIN CASES."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 NEW SECTION. **Section 1. Service of out-of-state process.** (1) Service of process originating from
11 the court of another state in the United States, a tribal government located outside Montana, or a United States
12 territory must:

13 (a) give at least 30 days' notice to be effective on a person served in Montana; and

14 (b) be served in accordance with Rule (4)(d) of the Montana Rules of Civil Procedure.

15 (2) A person served under subsection (1) may have a cause of action for compensatory damages under
16 [section 2] if the person appears in the out-of-state court and the case is continued without action on the merits
17 of the case, unless the person requested the continuance.

18
19 NEW SECTION. **Section 2. Compensatory damages for out-of-state continuance.** (1) A person
20 served under [section 1] may seek compensatory damages if:

21 (a) the person incurs expenses or loss of wages to travel to an out-of-state court; and

22 (b) the out-of-state court case is continued without action on the merits of the case, unless the person
23 requested the continuance.

24 (2) When assessing compensatory damages, the court may consider:

25 (a) whether the opposing party requested the continuance;

26 (b) the reasonableness of any expenses or loss of wages incurred;

27 (c) the ability of the opposing party to pay the damages; and

28 (d) any other factor the court considers relevant.

29 (3) As used in this section, "out-of-state court" means the court of another state in the United States, a
30 tribal government located outside Montana, or a United States territory.

1
2 NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an
3 integral part of Title 25, chapter 3, and the provisions of Title 25, chapter 3, apply to [section 1].
4 (2) [Section 2] is intended to be codified as an integral part of Title 27, chapter 1, and the provisions of
5 Title 27, chapter 1, apply to [section 2].

6 - END -