

1 SENATE BILL NO. 278

2 INTRODUCED BY G. HERTZ, M. BLASDEL, J. ELLSWORTH, S. FITZPATRICK, D. HOWARD, D. KARY, C.
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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO LAWSUITS;
6 CREATING LAWS RELATING TO ECONOMIC CONSUMPTION THAT IS DEDUCTED FROM DAMAGES IN
7 A MALPRACTICE CLAIM; PROHIBITING A PERSON FROM INSTITUTING CERTAIN LAWSUITS IF THE
8 PERSON WAS ENGAGED IN OR ENGAGING IN A FELONY OFFENSE; PROHIBITING CERTAIN
9 GOVERNMENT LAWSUITS AGAINST FIREARM OR AMMUNITION MANUFACTURES; REVISING
10 STATUTES OF LIMITATIONS FOR CERTAIN ACTIONS RELATING TO REAL PROPERTY AND CERTAIN
11 LOCAL GOVERNMENT OFFICIALS; AMENDING SECTIONS 27-2-208 AND 27-2-209, MCA; AND
12 PROVIDING AN APPLICABILITY DATE."

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

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16 NEW SECTION. **Section 1. Economic consumption to be deducted from award.** If damages are
17 awarded for a malpractice claim as defined in 25-9-411 for a deceased party's lost future earnings, the
18 deceased party's economic consumption must be deducted from the award. Economic consumption is the part
19 of the projected earnings that the deceased party would have spent on basic necessities and personal
20 expenditures throughout the party's lifetime, but not including expenses necessary to care for dependents of the
21 deceased party.

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23 NEW SECTION. **Section 2. Prohibition on lawsuit -- criminal actions.** A person who is harmed
24 while attempting to engage in, engaging in, or fleeing after having engaged in conduct that is classified as a
25 felony offense may not recover damages from a crime victim or other person that used reasonable self-defense
26 to protect a crime victim.

27
28 NEW SECTION. **Section 3. Government entity -- prohibitions on lawsuits related to firearms or**

1 **manufacturers.** (1) Except as provided in subsection (2), a government entity may not bring suit against a
 2 firearms or ammunition manufacturer, trade association, or seller for recovery of damages resulting from, or
 3 injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of
 4 firearms or ammunition to the public.

5 (2) Nothing in this section prohibits a government entity from bringing an action against a firearms or
 6 ammunition manufacturer, trade association, or seller for recovery of damages for:

7 (a) breach of contract or warranty as to firearms or ammunition purchased by a government entity;

8 (b) damage or harm to property owned or leased by the government entity caused by a defective
 9 firearm or ammunition; or

10 (c) personal injury or death, if the action arises from a government entity or an insurer for a
 11 government entity's claim for subrogation.

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13 **Section 4.** Section 27-2-208, MCA, is amended to read:

14 **"27-2-208. Actions for damages arising out of work on improvements to real property or land**

15 **surveying.** (1) Except as provided in 70-19-427(1) and subsections (2) and (3) of this section, an action to
 16 recover damages (other than an action upon any contract, obligation, or liability founded upon an instrument in
 17 writing) resulting from or arising out of the design, planning, supervision, inspection, construction, or
 18 observation of construction of any improvement to real property or resulting from or arising out of land
 19 surveying of real property may not be commenced more than ~~40~~9 years after completion of the improvement or
 20 land surveying.

21 (2) Notwithstanding the provisions of subsection (1), an action for damages for an injury that occurred
 22 during the ~~40th~~ninth year after the completion of the improvement or land surveying may be commenced within
 23 1 year after the occurrence of the injury.

24 (3) The limitation prescribed by this section may not affect the responsibility of any owner, tenant, or
 25 person in actual possession and control of the improvement or real property that is surveyed at the time a right
 26 of action arises.

27 (4) As used in this section:

28 (a) "completion" means that degree of completion at which the owner can utilize the improvement for

1 the purpose for which it was intended or when a completion certificate is executed, whichever is earlier;

2 (b) "land surveying" means the practice of land surveying, as defined in 37-67-101.

3 (5) This section may not be construed as extending the period prescribed by the laws of this state for
4 the bringing of any action."

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6 **Section 5.** Section 27-2-209, MCA, is amended to read:

7 **"27-2-209. Actions against local government or local government official.** (1) The period
8 prescribed for the commencement of an action against a sheriff, coroner, or constable upon a liability incurred
9 by the doing of an act in that person's official capacity and in virtue of that person's office or by the omission of
10 an official duty, including the nonpayment of money collected upon an execution, is within ~~3~~2 years, except that
11 this subsection does not apply to an action for an escape.

12 (2) The period prescribed for the commencement of an action against a sheriff or other officer for the
13 escape of a prisoner arrested or imprisoned on civil process is within 1 year.

14 (3) Actions for claims against a county that have been rejected by the county commissioners must be
15 commenced within 6 months after the first rejection.

16 (4) The period prescribed for the commencement of an action against a municipality for damages or
17 injuries to property caused by a mob or riot is within 1 year.

18 (5) The period prescribed for the commencement of an action against a municipality arising from a
19 decision of the municipality relating to a land use, construction, or development project is 6 months from the
20 date of the written decision."

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22 **NEW SECTION. Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an
23 integral part of Title 25, chapter 9, part 4, and the provisions of Title 25, chapter 9, part 4, apply to [section 1].

24 (2) [Section 2] is intended to be codified as an integral part of Title 27, and the provisions of Title 27
25 apply to [section 2].

26 (3) [Section 3] is intended to be codified as an integral part of Title 2, chapter 9, and the provisions of
27 Title 2, chapter 9, apply to [section 3].

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