

SENATE BILL NO. 134

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO INJUNCTIONS; PROVIDING ADDITIONAL DEADLINES FOR TEMPORARY RESTRAINING ORDERS WITHOUT NOTICE; AND AMENDING SECTIONS 27-19-316, 27-19-317, AND 27-19-318, MCA."

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

Section 1. Section 27-19-316, MCA, is amended to read:

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

- (1) be endorsed with the date and hour of its issuance;
(2) be filed immediately in the clerk's office and entered in the record;
(3) define the injury and state why the injury is irreparable and why the order was granted without notice; and

(4) except as provided in 40-4-121 or Title 40, chapter 15, expire by its terms within the time after entry, not to exceed 10 days, as the court or judge fixes after 10 days and is not enforceable after 10 days unless extended under 27-19-317."

Section 2. Section 27-19-317, MCA, is amended to read:

"27-19-317. Extension of expiration date. The time fixed in the order for its expiration may be extended, for good cause shown, for a like period 10 days or, if the party against whom the order is directed consents, for a longer period. The reasons for the extension must be entered in the record."

Section 3. Section 27-19-318, MCA, is amended to read:

"27-19-318. Application for injunction to be heard without delay. (1) Whenever a temporary restraining order is granted without notice, the application for an injunction must be set for hearing at the

1 earliest possible time and takes precedence over all matters except older matters of the same character.

2 (2) At the hearing the party who obtained the temporary restraining order shall proceed with the
3 application for an injunction, or if the party does not do so, the court or judge shall dissolve the temporary
4 restraining order.

5 (3) The hearing must be held within 20 days of issuance of the temporary restraining order.

6 (4) If the hearing is not held within 20 days, the temporary restraining order automatically expires
7 unless:

8 (a) the parties stipulate in writing to an extension; and

9 (b) the stipulation is filed with the court.

10 (5) After the hearing, the court may extend the temporary restraining order for 21 days.

11 (6) If the judge fails to address whether a bond is required during the hearing, the temporary
12 restraining order is invalid and unenforceable.

13 (7) If the court has not ruled on the preliminary injunction within 21 days of the hearing on the
14 temporary restraining order, the preliminary injunction is considered denied unless otherwise stipulated in
15 writing by the parties."

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