## HOUSE BILL NO. 675

## INTRODUCED BY SQUIRES, TOOLE, HALLIGAN

# IN THE HOUSE

FEBRUARY 7, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

PRINTING REPORT.

ENGROSSING REPORT.

FEBRUARY 22, 1991

FEBRUARY 23, 1991

FEBRUARY 25, 1991

FEBRUARY 26, 1991

THIRD READING, PASSED. AYES, 88; NOES, 10.

COMMITTEE RECOMMEND BILL

SECOND READING, DO PASS.

DO PASS. REPORT ADOPTED.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991

MARCH 13, 1991

MARCH 15, 1991

MARCH 16, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 18, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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LC 1591/01

House BILL NO. 675 1 2 3 "AN ACT REVISING TEMPORARY A BILL FOR AN ACT ENTITLED: 4 INJUNCTION PROCEDURES IN DOMESTIC CASES; ALLOWING ISSUANCE 5 OF A TEMPORARY INJUNCTION UPON THE THREAT OF PHYSICAL ABUSE, 6 7 HARM, OR BODILY INJURY; AND AMENDING SECTION 40-4-121, MCA." 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 40-4-121, MCA, is amended to read: 10 "40-4-121. Temporary order or temporary injunction. (1) 11 In a proceeding for dissolution of marriage or for legal 12 separation or in a proceeding for disposition of property or 13 for maintenance or support following dissolution of the 14 marriage by a court which lacked personal jurisdiction over 15 the absent spouse, either party may move for temporary 16 maintenance or temporary support of a child of the marriage 17 entitled to support. The motion shall be accompanied by an 18 affidavit setting forth the factual basis for the motion and 19 the amounts requested. 20 (2) As a part of a motion for temporary maintenance or 21 support or by independent motion accompanied by affidavit, 22

24 injunction for any of the following relief:

25 (a) restraining any person from transferring,

either party may request the court to issue a temporary



1 encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the 2 necessities of life and, if so restrained, requiring him to २ notify the moving party of any proposed extraordinary 4 expenditures made after the order is issued; 5 (b) enjoining a party from molesting or disturbing the б peace of the other party or of any child; 7 a (c) excluding a party from the family home or from the 9 home of the other party upon a showing that physical or 10 emotional harm would otherwise result; (d) enjoining a party from removing a child from the 11 jurisdiction of the court; and 12 13 (e) providing other injunctive relief proper in the 14 circumstances. (3) A person may seek the relief provided for in 15 subsection (2) of this section without filing a petition 16 17 under this part for a dissolution of marriage or legal 18 separation by filing a verified petition: 19 (a) alleging physical abuse, harm, or bodily injury 20 against the petitioner by a family or household member or the threat of physical abuse, harm, or bodily injury against 21 22 the petitioner by a family or household member that causes 23 the petitioner to reasonably believe that the offender has 24 the present ability to execute the threat; and 25 (b) requesting relief under Title 27, chapter 19, part

# -2- INTRODUCED BILL HB 675

3. Any preliminary injunction entered under this subsection must be for a fixed period of time, not to exceed 1 year, and may be modified as provided in Title 27, chapter 19, part 4, and 40-4-208. Persons who may request relief under this subsection include spouses, former spouses, and persons cohabiting or who have cohabited with the other party within 1 year immediately preceding the filing of the petition.

8 (4) The court may issue a temporary restraining order 9 for a period not to exceed 20 days without requiring notice 10 to the other party only if it finds on the basis of the 11 moving affidavit or other evidence that irreparable injury 12 will result to the moving party if no order is issued until 13 the time for responding has elapsed.

14 (5) A response may be filed within 20 days after
15 service of notice of motion or at the time specified in the
16 temporary restraining order.

17 (6) On the basis of the showing made and in conformity 18 with 40-4-203 and 40-4-204, the court may issue a temporary 19 injunction and an order for temporary maintenance or support 20 in amounts and on terms just and proper in the circumstance.

(7) A temporary order or temporary injunction:

(a) does not prejudice the rights of the parties or the
child which are to be adjudicated at subsequent hearings in
the proceeding;

25 (b) may be revoked or modified before final decree on a

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showing by affidavit of the facts necessary to revocation or
 modification of a final decree under 40-4-208;

3 (c) terminates upon order of the court or when a final
4 decree is entered or when a petition for dissolution or
5 legal separation is voluntarily dismissed; and

6 (d) when issued under this section must conspicuously
7 bear the following: "Violation of this order is a criminal
8 offense under 45-5-626."

9 (8) When the petitioner has fled the parties'
10 residence, notice of petitioner's new residence must be
11 withheld except by order of the court for good cause shown."

-End-

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52nd Legislature

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LC 1591/01 APPROVED BY COMMITTEE ON JUDICIARY HOUSE BILL NO. 675 INTRODUCED BY Courses lot former A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TEMPORARY INJUNCTION PROCEDURES IN DOMESTIC CASES: ALLOWING ISSUANCE OF A TEMPORARY INJUNCTION UPON THE THREAT OF PHYSICAL ABUSE. HARM, OR BODILY INJURY; AND AMENDING SECTION 40-4-121, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9

Section 1. Section 40-4-121, MCA, is amended to read: 10 "40-4-121. Temporary order or temporary injunction. (1) 11 In a proceeding for dissolution of marriage or for legal 12 separation or in a proceeding for disposition of property or 13 for maintenance or support following dissolution of the 14 15 marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary 16 17 maintenance or temporary support of a child of the marriage entitled to support. The motion shall be accompanied by an 18 affidavit setting forth the factual basis for the motion and 19 20 the amounts requested.

21 (2) As a part of a motion for temporary maintenance or 22 support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary 23 injunction for any of the following relief: 24

person from transferring, 25 (a) restraining anv



1 encumbering, concealing, or otherwise disposing of any 2 property except in the usual course of business or for the 3 necessities of life and, if so restrained, requiring him to notify the moving party of any proposed extraordinary 4 5 expenditures made after the order is issued:

6 (b) enjoining a party from molesting or disturbing the 7 peace of the other party or of any child:

8 (c) excluding a party from the family home or from the 9 home of the other party upon a showing that physical or 10 emotional harm would otherwise result;

11 (d) enjoining a party from removing a child from the 12 jurisdiction of the court; and

13 (e) providing other injunctive relief proper in the 14 circumstances.

15 (3) A person may seek the relief provided for in 16 subsection (2) of this section without filing a petition 17 under this part for a dissolution of marriage or legal 18 separation by filing a verified petition:

19 (a) alleging physical abuse, harm, or bodily injury 20 against the petitioner by a family or household member or 21 the threat of physical abuse, harm, or bodily injury against 22 the petitioner by a family or household member that causes 23 the petitioner to reasonably believe that the offender has

24 the present ability to execute the threat; and

25 (b) requesting relief under Title 27, chapter 19, part SECOND READING

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3. Any preliminary injunction entered under this subsection
 must be for a fixed period of time, not to exceed 1 year,
 and may be modified as provided in Title 27, chapter 19,
 part 4, and 40-4-208. Persons who may request relief under
 this subsection include spouses, former spouses, and persons
 cohabiting or who have cohabited with the other party within
 year immediately preceding the filing of the petition.

8 (4) The court may issue a temporary restraining order 9 for a period not to exceed 20 days without requiring notice 10 to the other party only if it finds on the basis of the 11 moving affidavit or other evidence that irreparable injury 12 will result to the moving party if no order is issued until 13 the time for responding has elapsed.

14 (5) A response may be filed within 20 days after
15 service of notice of motion or at the time specified in the
16 temporary restraining order.

17 (6) On the basis of the showing made and in conformity
18 with 40-4-203 and 40-4-204, the court may issue a temporary
19 injunction and an order for temporary maintenance or support
20 in amounts and on terms just and proper in the circumstance.

21 (7) A temporary order or temporary injunction:

(a) does not prejudice the rights of the parties or the
child which are to be adjudicated at subsequent hearings in
the proceeding;

25 (b) may be revoked or modified before final decree on a

showing by affidavit of the facts necessary to revocation or
 modification of a final decree under 40-4-208;

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3 (c) terminates upon order of the court or when a final
4 decree is entered or when a petition for dissolution or
5 legal separation is voluntarily dismissed; and

6 (d) when issued under this section must conspicuously
7 bear the following: "Violation of this order is a criminal
8 offense under 45-5-626."

9 (8) When the petitioner has fled the parties'
10 residence, notice of petitioner's new residence must be
11 withheld except by order of the court for good cause shown."

-End-

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HOUSE BILL NO. 675 1 2 З 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TEMPORARY S INJUNCTION PROCEDURES IN DOMESTIC CASES: ALLOWING ISSUANCE 6 OF A TEMPORARY INJUNCTION UPON THE THREAT OF PHYSICAL ABUSE, HARM, OR BODILY INJURY; AND AMENDING SECTION 40-4-121, MCA." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 40-4-121, MCA, is amended to read: 10 11 **\*40-4-121.** Temporary order or temporary injunction. (1) 12 In a proceeding for dissolution of marriage or for legal 13 separation or in a proceeding for disposition of property or 14 for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over 15 the absent spouse, either party may move for temporary 16 17 maintenance or temporary support of a child of the marriage 18 entitled to support. The motion shall be accompanied by an 19 affidavit setting forth the factual basis for the motion and 20 the amounts requested. 21 (2) As a part of a motion for temporary maintenance or 22 support or by independent motion accompanied by affidavit, 23 either party may request the court to issue a temporary 24 injunction for any of the following relief:

25 (a) restraining any person from transferring,



encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life and, if so restrained, requiring him to notify the moving party of any proposed extraordinary

5 expenditures made after the order is issued;

6 (b) enjoining a party from molesting or disturbing the7 peace of the other party or of any child;

8 (c) excluding a party from the family home or from the 9 home of the other party upon a showing that physical or 10 emotional harm would otherwise result;

11 (d) enjoining a party from removing a child from the 12 jurisdiction of the court; and

13 (e) providing other injunctive relief proper in the 14 circumstances.

15 (3) A person may seek the relief provided for in 16 subsection (2) of this section without filing a petition 17 under this part for a dissolution of marriage or legal 18 separation by filing a verified petition:

(a) alleging physical abuse, harm, or bodily injury
against the petitioner by a family or household member or
the threat of physical abuse, harm, or bodily injury against

22 the petitioner by a family or household member that causes

23 the petitioner to reasonably believe that the offender has

24 the present ability to execute the threat; and

25 (b) requesting relief under Title 27, chapter 19, part THIRD READING

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3. Any preliminary injunction entered under this subsection must be for a fixed period of time, not to exceed 1 year, and may be modified as provided in Title 27, chapter 19, part 4, and 40-4-208. Persons who may request relief under this subsection include spouses, former spouses, and persons cohabiting or who have cohabited with the other party within 1 year immediately preceding the filing of the petition.

8 (4) The court may issue a temporary restraining order 9 for a period not to exceed 20 days without requiring notice 10 to the other party only if it finds on the basis of the 11 moving affidavit or other evidence that irreparable injury 12 will result to the moving party if no order is issued until 13 the time for responding has elapsed.

14 (5) A response may be filed within 20 days after
15 service of notice of motion or at the time specified in the
16 temporary restraining order.

17 (6) On the basis of the showing made and in conformity
18 with 40-4-203 and 40-4-204, the court may issue a temporary
19 injunction and an order for temporary maintenance or support
20 in amounts and on terms just and proper in the circumstance.

21 (7) A temporary order or temporary injunction:

(a) does not prejudice the rights of the parties or the
child which are to be adjudicated at subsequent hearings in
the proceeding;

25 (b) may be revoked or modified before final decree on a

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showing by affidavit of the facts necessary to revocation or
 modification of a final decree under 40-4-208;

3 (c) terminates upon order of the court or when a final
4 decree is entered or when a petition for dissolution or
5 legal separation is voluntarily dismissed; and

6 (d) when issued under this section must conspicuously
7 bear the following: "Violation of this order is a criminal
8 offense under 45-5-626."

9 (8) When the petitioner has fled the parties'
10 residence, notice of petitioner's new residence must be
11 withheld except by order of the court for good cause shown."

-End-

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## HB 0675/02

HB 0675/02

1	HOUSE BILL NO. 675	1	encumbering, concealing, or otherwise disposing of any
2	INTRODUCED BY SQUIRES, TOOLE, HALLIGAN	2	property except in the usual course of business or for the
3		3	necessities of life and, if so restrained, requiring him to
4	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TEMPORARY	4	notify the moving party of any proposed extraordinary
5	INJUNCTION PROCEDURES IN DOMESTIC CASES; ALLOWING ISSUANCE	5	expenditures made after the order is issued;
6	OF A TEMPORARY INJUNCTION UPON THE THREAT OF PHYSICAL ABUSE,	6	(b) enjoining a party from molesting or disturbing the
7	HARM, OR BODILY INJURY; AND AMENDING SECTION 40-4-121, MCA."	7	peace of the other party or of any child;
8		8	(c) excluding a party from the family home or from the
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	home of the other party upon a showing that physical or
10	Section 1. Section 40-4-121, MCA, is amended to read:	10	emotional harm would otherwise result;
11	<b>"40-4-121. Temporary order or temporary injunction.</b> (1)	11	(d) enjoining a party from removing a child from the
12	In a proceeding for dissolution of marriage or for legal	12	jurisdiction of the court; and
13	separation or in a proceeding for disposition of property or	13	(e) providing other injunctive relief proper in the
14	for maintenance or support following dissolution of the	14	circumstances.
15	marriage by a court which lacked personal jurisdiction over	15	(3) A person may seek the relief provided for in
16	the absent spouse, either party may move for temporary	16	subsection (2) of this section without filing a petition
17	maintenance or temporary support of a child of the marriage	17	under this part for a dissolution of marriage or legal
18	entitled to support. The motion shall be accompanied by an	18	separation by filing a verified petition:
19	affidavit setting forth the factual basis for the motion and	19	(a) alleging physical abuse, harm, or bodily injury
20	the amounts requested.	20	against the petitioner by a family or household member or
21	(2) As a part of a motion for temporary maintenance or	21	the threat of physical abuse, harm, or bodily injury against
22	support or by independent motion accompanied by affidavit,	22	the petitioner by a family or household member that causes
23	either party may request the court to issue a temporary	23	the petitioner to reasonably believe that the offender has
24	injunction for any of the following relief:	24	the present ability to execute the threat; and
25	(a) restraining any person from transferring,	25	(b) requesting relief under Title 27, chapter 19, part

REFERENCE BILL

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3. Any preliminary injunction entered under this subsection must be for a fixed period of time, not to exceed 1 year, and may be modified as provided in Title 27, chapter 19, part 4, and 40-4-208. Persons who may request relief under this subsection include spouses, former spouses, and persons cohabiting or who have cohabited with the other party within 1 year immediately preceding the filing of the petition.

8 (4) The court may issue a temporary restraining order 9 for a period not to exceed 20 days without requiring notice 10 to the other party only if it finds on the basis of the 11 moving affidavit or other evidence that irreparable injury 12 will result to the moving party if no order is issued until 13 the time for responding has elapsed.

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15 service of notice of motion or at the time specified in the
16 temporary restraining order.

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child which are to be adjudicated at subsequent hearings in
the proceeding;

25 (b) may be revoked or modified before final decree on a

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1 showing by affidavit of the facts necessary to revocation or
2 modification of a final decree under 40-4-208:

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3 (c) terminates upon order of the court or when a final 4 decree is entered or when a petition for dissolution or 5 legal separation is voluntarily dismissed; and

6 (d) when issued under this section must conspicuously
7 bear the following: "Violation of this order is a criminal
8 offense under 45-5-626."

9 (8) When the petitioner has fled the parties' 10 residence, notice of petitioner's new residence must be 11 withheld except by order of the court for good cause shown."

-End-

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HB 675

anana ka aliya na masa dan sa matatinan si sa nganan panang san jangan siga matatinanga.

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