

1 H BILL NO. 177
2 INTRODUCED BY Mesaha Lynch

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 16-2714, R.C.M. 1947, TO LIMIT THE LIABILITY OF SHERIFFS IN
6 RESPECT TO SERVICE OF PROCESS AND LEVY OF ATTACHMENT."

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

9 Section 1. Section 16-2714, R.C.M. 1947, is amended to
10 read as follows:

11 "16-2714. Direction to sheriff must be in writing. No
12 direction or authority by a party or his attorney to a
13 sheriff, in respect to the execution of process or return
14 thereof, or any act or omission relating thereto, is
15 available to discharge or excuse the sheriff from a
16 liability for neglect or misconduct, unless it is contained
17 in a writing signed by the attorney of the party or by the
18 party. No sheriff is liable in any way for debts, charges,
19 bills, fees, or expenses of any nature arising from the
20 execution of any lawful process or the levy of any
21 attachment as provided for in 93-4313, whether authorized or
22 contracted by either plaintiff or defendant or their
23 attorneys if, in the execution of such process or
24 attachment, the sheriff made such process or attachment in a
25 reasonable manner."

-End-

HB177

March 24, 1977

SENATE
STANDING COMMITTEE REPORT
Judiciary Committee

That House Bill No. 177, third reading, be amended as follows:

1. Amend title, lines 5 and 6.

Following: ", TO"

Strike: lines 5 and 6 in their entirety

Insert: "REQUIRE THAT A BOND BE FURNISHED BY A PARTY REQUESTING SERVICE OF A WRIT OF EXECUTION OR ATTACHMENT WHEN THE SHERIFF WILL INCUR SUBSTANTIAL COSTS.'"

2. Amend page 1, section 1, lines 18 through 25.

Following: "party."

Strike: lines 18 through 25 in their entirety

Insert: "If the sheriff will incur substantial costs in transporting, keeping, or storing the property seized, the party requesting service of a writ of execution or attachment shall provide a bond or other security to pay for all costs which may be incurred as a result of the service of such writ."

HOUSE BILL NO. 177

INTRODUCED BY MENAHAN, LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 16-2714, R.C.M. 1947, TO ~~LIMIT THE LIABILITY OF SHERIFFS IN RESPECT TO SERVICE OF PROCESS AND LEVY OF ATTACHMENT.~~ REQUIRE THAT A BOND BE FURNISHED BY A PARTY REQUESTING SERVICE OF A WRIT OF EXECUTION OR ATTACHMENT WHEN THE SHERIFF WILL INCUR SUBSTANTIAL COSTS."

~~attorneys if in the execution of such process or attachment the sheriff made such process or attachment in a reasonable manner. IF THE SHERIFF WILL INCUR SUBSTANTIAL COSTS IN TRANSPORTING, KEEPING, OR STORING THE PROPERTY SEIZED, THE PARTY REQUESTING SERVICE OF A WRIT OF EXECUTION OR ATTACHMENT SHALL PROVIDE A BOND OR OTHER SECURITY TO PAY FOR ALL COSTS WHICH MAY BE INCURRED AS A RESULT OF THE SERVICE OF SUCH WRIT."~~

-End-

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

Section 1. Section 16-2714, R.C.M. 1947, is amended to read as follows:

"16-2714. Direction to sheriff must be in writing. No direction or authority by a party or his attorney to a sheriff, in respect to the execution of process or return thereof, or any act or omission relating thereto, is available to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing signed by the attorney of the party or by the party. ~~No sheriff is liable in any way for debts, charges, bills, fees, or expenses of any nature arising from the execution of any lawful process or the levy of any attachment as provided for in 92-4313, whether authorized or contracted by either plaintiff or defendant or their~~