

1 H BILL NO. 279
2 INTRODUCED BY Scully

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
5 CERTIFICATE OF MERIT IN CIVIL SUITS FOR MEDICAL/MALPRACTICE;
6 AND TO PROVIDE FOR SANCTIONS AGAINST PLAINTIFF'S ATTORNEY IF
7 THERE IS A DISMISSAL PRIOR TO OR AT THE CONCLUSION OF
8 PLAINTIFF'S CASE."

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

11 Section 1. Medical malpractice suits -- certificate of
12 merit, sanctions against plaintiff's attorney. (1) In an
13 action for damages arising out of the professional
14 negligence of a physician or surgeon in this state, the
15 attorney for the plaintiff shall, within 30 days after
16 written demand by the opposing party, file with the court
17 and serve upon counsel for the defendant a certificate of
18 merit verifying under oath that he has reviewed the facts of
19 the case, consulted with at least one physician licensed to
20 practice in this state, and concluded on the basis of such
21 review and consultation that there is reasonable cause for
22 the filing of the action.

23 (2) If the action is dismissed prior to or at the
24 conclusion of plaintiff's case, the defendant may demand a
25 justification of the reasons set forth in the certificate of

1 merit. If there was no merit, the trial court may impose
2 sanctions against the plaintiff's attorney in the form of
3 reasonable expert witness fees incurred and necessary to the
4 preparation of the case for trial by the defendant and, in
5 addition, impose a monetary penalty on plaintiff's attorney,
6 which may not exceed \$500.

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