

# Montana FOI Hotline

Be prepared by knowing the law. A good summary is contained in a brochure available from the Montana FOI Hotline, the Montana Newspaper Association, the Montana Broadcasters Association and others, titled "Access in Montana."

If you know in advance that a meeting may be closed, know your rights by contacting the Montana Freedom of Information Hotline at **406-442-8670** or emailing **mike@meloylawfirm.com**

**[www.montanafoi.org](http://www.montanafoi.org)**

## **If you attend a meeting that is about to close, you should:**

1. Assert your right to observe the meeting under Article II, Sections 8 and 9 of the Montana Constitution;
2. Insist that the chair of the meeting disclose the reason for closing the meeting, including the subject matter of the discussion;
3. Ask the chair to perform the balancing test and explain why the demands of individual privacy clearly exceed the merits of public disclosure.
4. Request that minutes of the closed session be taken; and
5. Advise the chair that you can bring a lawsuit under Montana law to void any decision made in the closed session and recover your attorney fees.

**If you attend a court session that is about to be closed, you should politely address the court as follows:**

Your Honor, may I address the court? My name is \_\_\_\_\_. I'm a reporter for \_\_\_\_\_. I respectfully object to closing this proceeding to the public and the news media.

The Montana Supreme Court has ruled that the “right-to-know” provision of the Montana Constitution and the First and the Fourteenth Amendments to the U.S. Constitution guarantee the public the right to attend criminal proceedings except in the most extreme cases. These decisions hold that the closure must be a last resort, taken only after

- (1) a showing of the compelling interests that demand it, and
- (2) that less restrictive alternatives are not available. Before you rule on this motion to close these proceedings, I request a recess to let me consult with my employer and my lawyer. Thank you.

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## **Public Documents**

If you request certain documents and are refused, make sure you insist the custodian of the documents give you reasons for withholding the documents. Then consult with the FOI Hotline to determine whether the rationale for denying access is supportable.