

HOUSE BILL 931

Introduced by S. Rice, et al.

2/18	Introduced
2/18	Referred to Judiciary
2/19	First Reading
2/19	Fiscal Note Requested
2/21	Hearing
2/21	Tabled in Committee
2/23	Fiscal Note Received

1 HOUSE BILL NO. 931  
 2 INTRODUCED BY Spice JK

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A METHOD TO  
 5 INCREASE FUNDING FOR COURT BAILIFF EXPENSES BY INCREASING  
 6 THE FILING FEES PAID TO THE DISTRICT COURT AT THE TIME A  
 7 CIVIL ACTION IS FILED IN THE DISTRICT COURT; PROVIDING THAT  
 8 THE ADDITIONAL FUNDS BE DISBURSED PROPORTIONALLY TO EACH  
 9 COUNTY IN THE SAME MANNER AS ARE FUNDS FOR DISTRICT COURT  
 10 EXPENSES; AMENDING SECTIONS 3-5-902, 25-1-201, AND 25-1-202,  
 11 MCA; AND PROVIDING AN EFFECTIVE DATE."  
 12

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

14 **Section 1.** Section 3-5-902, MCA, is amended to read:

15 **"3-5-902.** Fiscal administration for payment of court  
 16 expenses. The department of commerce shall:

17 (1) establish procedures for disbursement of funds for  
 18 payment of district court expenses listed in 3-5-901 and  
 19 court bailiff expenses, as provided in {section 4},  
 20 including prorating of those funds if they are insufficient  
 21 to cover all expenses listed in 3-5-901;

22 (2) develop a uniform accounting system for use by the  
 23 counties in reporting court expenses at a detailed level for  
 24 budgeting and auditing purposes; and

25 (3) provide for annual auditing of district court

1 expenses to assure normal operations and consistency in  
 2 reporting of expenditures."

3 **Section 2.** Section 25-1-201, MCA, is amended to read:

4 **"25-1-201.** Fees of clerk of district court. (1) The  
 5 clerk of the district court shall collect the following  
 6 fees:

7 (a) at the commencement of each action or proceeding,  
 8 except a petition for dissolution of marriage, from the  
 9 plaintiff or petitioner, \$60; for filing a complaint in  
 10 intervention, from the intervenor, \$60; for filing a  
 11 petition for dissolution of marriage, a fee of \$100; and for  
 12 filing a petition for legal separation, a fee of \$100; and  
 13 additional filing fees as required in 25-1-202;

14 (b) from each defendant or respondent, on his  
 15 appearance, \$40;

16 (c) on the entry of judgment, from the prevailing  
 17 party, \$25;

18 (d) for preparing copies of papers on file in his  
 19 office, 50 cents per page for the first five pages of each  
 20 file, per request, and 25 cents per page thereafter;

21 (e) for each certificate, with seal, \$2;

22 (f) for oath and jurat, with seal, \$1;

23 (g) for search of court records, 50 cents for each year  
 24 searched, not to exceed a total of \$25;

25 (h) for filing and docketing a transcript of judgment



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1 or abstract of judgment from all other courts, \$25;

2 (i) for issuing an execution or order of sale on a  
3 foreclosure of a lien, \$5;

4 (j) for transmission of records or files or transfer of  
5 a case to another court, \$5;

6 (k) for filing and entering papers received by transfer  
7 from other courts, \$10;

8 (l) for issuing a marriage license, \$30;

9 (m) on the filing of an application for informal,  
10 formal, or supervised probate or for the appointment of a  
11 personal representative or the filing of a petition for the  
12 appointment of a guardian or conservator, from the applicant  
13 or petitioner, \$50, which includes the fee for filing a will  
14 for probate;

15 (n) on the filing of the items required in 72-4-303 by  
16 a domiciliary foreign personal representative of the estate  
17 of a nonresident decedent, \$35;

18 (o) for filing a declaration of marriage without  
19 solemnization, \$30;

20 (p) for filing a motion for substitution of a judge,  
21 \$100.

22 (2) Except as provided in subsections (3) through (7),  
23 32% of all fees collected by the clerk of the district court  
24 must be deposited in and credited to the district court  
25 fund. If no district court fund exists, that portion of the

1 fees must be deposited in the general fund for district  
2 court operations. The remaining portion of the fees must be  
3 remitted to the state to be deposited as provided in  
4 19-5-404.

5 (3) In the case of a fee collected for issuing a  
6 marriage license or filing a declaration of marriage without  
7 solemnization, \$14 must be deposited in and credited to the  
8 state general fund, \$6.40 must be deposited in and credited  
9 to the county general fund, and \$9.60 must be remitted to  
10 the state to be deposited as provided in 19-5-404.

11 (4) Of the fee for filing a petition for dissolution of  
12 marriage or legal separation, \$40 must be deposited in the  
13 state general fund, \$35 must be remitted to the state to be  
14 deposited as provided in 19-5-404, \$5 must be deposited in  
15 the children's trust fund account established by 41-3-702,  
16 and \$20 must be deposited in and credited to the district  
17 court fund. If no district court fund exists, the \$20 must  
18 be deposited in the general fund for district court  
19 operations.

20 (5) (a) Before the percentages contained in subsection  
21 (2) are applied and the fees deposited in the district court  
22 fund or the county general fund or remitted to the state,  
23 the clerk of the district court shall deduct from the  
24 following fees the amounts indicated:

25 (i) at the commencement of each action or proceeding

1 and for filing a complaint in intervention as provided in  
2 subsection (1)(a), \$35;

3 (ii) from each defendant or respondent, on his  
4 appearance, as provided in subsection (1)(b), \$25;

5 (iii) on the entry of judgment as provided in subsection  
6 (1)(c), \$15;

7 (iv) on the entry of judgment as provided in subsection  
8 (1)(h), \$20;

9 (v) for issuing an execution or order of sale as  
10 provided in subsection (1)(i), \$3; and

11 (vi) from the applicant or petitioner, on the filing of  
12 an application for probate or for the appointment of a  
13 personal representative or on the filing of a petition for  
14 appointment of a guardian or conservator, as provided in  
15 subsection (1)(m), \$15.

16 (b) The clerk of the district court shall deposit the  
17 money deducted in subsection (5)(a) in the county general  
18 fund for district court operations unless the county has a  
19 district court fund. If the county has a district court  
20 fund, the money must be deposited in that fund.

21 (6) The fee for filing a motion for substitution of a  
22 judge as provided in subsection (1)(p) must be remitted to  
23 the state to be deposited as provided in 19-5-404.

24 (7) Fees collected under subsections (1)(d) through  
25 (1)(i) must be deposited in the district court fund. If no

1 district court fund exists, fees must be deposited in the  
2 general fund for district court operations."

3 **Section 3.** Section 25-1-202, MCA, is amended to read:

4 "25-1-202. Fee Fees for court reporter and court  
5 bailiff. (1) In addition to other filing fees, a fee of ~~\$10~~  
6 \$20 must be paid to the clerk of the district court at the  
7 time of filing a civil action in the district court. ~~The Ten~~  
8 dollars of the fee must be paid by the clerk into the  
9 treasury of the county where the action is filed, to be  
10 applied to the payment of the salary of the reporter. ~~The~~  
11 remaining \$10 must be used to pay district court expenses  
12 listed in 3-5-901 and bailiff expenses, as provided in  
13 3-5-902, and must be disbursed in accordance with [section  
14 4].

15 (2) The prevailing party may have the amount paid by  
16 him for a court reporter taxed in his bill of costs as  
17 proper disbursements."

18 **NEW SECTION. Section 4. Apportionment of funds for**  
19 **payment of court bailiffs.** The supreme court administrator  
20 shall determine the total number of civil and criminal  
21 actions commenced in the preceding year in district court in  
22 each judicial district for which a bailiff is appointed. The  
23 administrator shall disburse the funds collected for court  
24 bailiff expenses under 25-1-202 to each county based on each  
25 county's proportion of the total number of district court

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1 actions commenced in the preceding year. The county shall  
2 deposit the amount disbursed in its general fund to be paid  
3 to the district court or the county sheriff depending on  
4 which entity is responsible for court bailiff expenses in  
5 the county. The county remains responsible for funding any  
6 remaining court bailiff expenses.

7 NEW SECTION. **Section 5.** **Effective date.** [This act] is  
8 effective July 1, 1991.

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