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House BILL NO. *514*

INTRODUCED BY *Shyne Water*

Winn

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CIVIL LEGAL ASSISTANCE FOR INDIGENT PERSONS IN DOMESTIC VIOLENCE ACCOUNT; PROVIDING THAT THE MONTANA SUPREME COURT ADMINISTRATOR SHALL ESTABLISH PROCEDURES FOR DISTRIBUTION OF THE MONEY IN THE ACCOUNT; INCREASING CERTAIN DISTRICT COURT AND JUSTICE'S COURT FEES TO FUND THE ACCOUNT; AMENDING SECTIONS 25-1-201, 25-31-112, AND 25-35-608, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

- (a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, ~~\$80~~ \$90; for filing a complaint in intervention, from the intervenor, ~~\$80~~ \$90; for filing a petition for dissolution of marriage, ~~a fee of \$120~~ \$130; and for filing a petition for legal separation, ~~a fee of \$120~~ \$130;
- (b) from each defendant or respondent, on appearance, \$60;
- (c) on the entry of judgment, from the prevailing party, \$45;
- (d) for preparing copies of papers on file in the clerk's office, 50 cents ~~per~~ for each page for the first five pages of each file, ~~per~~ for each request, and 25 cents ~~per~~ for each additional page;
- (e) for each certificate, with seal, \$2;
- (f) for oath and jurat, with seal, \$1;
- (g) for search of court records, 50 cents for each year searched, not to exceed a total of \$25;
- (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);
- (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;
- (j) for transmission of records or files or transfer of a case to another court, \$5;



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

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

3 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
4 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
5 the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

6 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative
7 of the estate of a nonresident decedent, \$55;

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

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

10 (2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the
11 district court must be deposited in and credited to the district court fund. If ~~no a~~ a district court fund exists
12 does not exist, that portion of the fees must be deposited in the county general fund for district court
13 operations. The remaining portion of the fees must be remitted to the state to be deposited as provided in
14 19-5-404.

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

19 (4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$40 must be
20 deposited in the state general fund, \$35 must be remitted to the state to be deposited as provided in
21 19-5-404, \$5 must be deposited in the children's trust fund account established ~~by~~ in 41-3-702, \$10 must
22 be deposited in the civil legal assistance for indigent persons in domestic violence account established in
23 [section 4], and \$20 must be deposited in and credited to the district court fund. If ~~no a~~ a district court fund
24 exists does not exist, the \$20 must be deposited in the county general fund for district court operations.

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

28 (i) at the commencement of each action or proceeding and for filing a complaint in intervention as
29 provided in subsection (1)(a), \$35;

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

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

2 (iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment
3 of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as
4 provided in subsection (1)(m), \$15.

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

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

10 (7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court
11 fund. If ~~no~~ a district court fund ~~exists~~ does not exist, fees must be deposited in the county general fund
12 for district court operations.

13 (8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each fee
14 collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion of
15 judicial salaries."

16

17 **Section 2.** Section 25-31-112, MCA, is amended to read:

18 "25-31-112. **Fees.** (1) The following is the schedule of fees ~~which~~ that, except as provided in
19 25-35-605, ~~shall~~ must be paid in every civil action in a justice's court:

20 ~~(1)(a)~~ \$25 \$30 when complaint is filed, to be paid by the plaintiff;

21 ~~(2)(b)~~ \$10 when the defendant appears, to be paid by the defendant;

22 ~~(3)(c)~~ \$10 to be paid by the prevailing party when judgment is rendered. In cases ~~where~~ in which
23 judgment is entered by default, no charge except the \$25 for the filing of the complaint ~~shall~~ may be made
24 for any services, including issuing and return of execution.

25 ~~(4)(d)~~ \$10 for all services in an action ~~where~~ in which judgment is rendered by confession;

26 ~~(5)(e)~~ \$10 for filing notice of appeal and transcript on appeal, justifying and approving undertaking
27 on appeal, and transmitting papers to the district court with certificate.

28 (2) Of the fee for filing, \$5 must be deposited in the civil legal assistance for indigent persons in
29 domestic violence account established in [section 4]."

30

1 **Section 3.** Section 25-35-608, MCA, is amended to read:

2 "**25-35-608. Fees.** (1) The clerk of the justice's court shall collect a fee of:

3 (a) ~~\$10~~ \$15 from the plaintiff upon the filing of the sworn complaint; and

4 (b) \$5 from the defendant upon ~~his~~ the defendant's appearance and contesting of the complaint
5 or execution of a counterclaim.

6 (2) The laws relating to paupers' affidavits apply to actions before the small claims court.

7 (3) Of the fee for filing, \$5 must be deposited in the civil legal assistance for indigent persons in
8 domestic violence account established in [section 4]."

9

10 **NEW SECTION. Section 4. Civil legal assistance for indigent persons in domestic violence account.**

11 (1) There is a civil legal assistance for indigent persons in domestic violence account in the state special
12 revenue fund. There must be paid into this account the filing fees paid under 25-1-201(4), 25-31-112(2),
13 and 25-35-608(3). The money in the account must be used solely for the purpose of providing legal
14 representation for indigent persons in civil matters in domestic violence cases and for alternative dispute
15 resolution initiatives in family law cases. Money in the account may not be used for class action lawsuits.

16 (2) The supreme court administrator shall establish procedures for the distribution of money in the
17 account. The supreme court administrator may designate not-for-profit organizations that ordinarily render
18 or finance legal services to indigent persons in civil matters in domestic violence cases to receive or
19 administer the distribution of the funds.

20

21 **NEW SECTION. Section 5. Codification instruction.** [Section 4] is intended to be codified as an
22 integral part of Title 3, chapter 2, part 7, and the provisions of Title 3, chapter 2, part 7, apply to [section
23 4].

24

25 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 1997.

26

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0514, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing the civil legal assistance for indigent persons in domestic violence account; providing that the Montana Supreme Court administrator shall establish procedures for distribution of the money in the account; and increasing certain District Court and Justice's Court fees to fund the account.

ASSUMPTIONS:


1. Because 1996 caseload statistics are not complete, 1995 caseload statistics are used to project fees collected.
2. The Supreme Court administrator would designate an organization to receive and administer the distribution of the funds. The only workload impact to the Supreme Court administrator would be to designate the administrating organization and to transfer the funds to the organization.
3. In 1995 there were 7,678 domestic relations cases filed in District Court that included divorce cases, separations, child custody, and other domestic relation cases. Divorce/separation case statistics are not maintained separately and child custody cases are usually included in the divorce/separation proceeding. At \$10 per case, there would be \$76,780 collected each year of the biennium.
4. In 1995, about 340,000 total cases were filed in Courts of Limited Jurisdiction and 10% of the cases were civil cases. At \$5 per filing, 34,000 cases would result in \$170,000 of annual fees.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Legal Assistance Pass Thru	246,780	246,780
<u>Funding:</u>		
Court Filing Fees SSR(02)	246,780	246,780
<u>Net Impact on Fund Balance:</u>		
Court Filing Fees SSR(02)	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The court filing fees would be collected at the county/local level and then transferred to the state. The local financial records would reflect the receipt and disbursement of the funds.

 2.13.97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 CHRIS AHNER, PRIMARY SPONSOR DATE
 Fiscal Note for HB0514, as introduced

HB 514