



MONTANA SUPREME COURT

Annual Pro Bono Report June 2019

MONTANA SUPREME COURT
STATEWIDE PRO BONO PROGRAM

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EXECUTIVE SUMMARY

Pro Bono Pledge

Rule 6.1 of the Montana Rules of Professional Conduct for lawyers states that Montana attorneys authorized to practice law in the state should provide 50 hours of *pro bono publico*¹ service with the substantial majority of those hours devoted to provision of legal services to people of limited means. The annual Pro Bono Report is designed to capture, analyze, and report the extraordinary contributions of Montana attorneys in providing pro bono services across Montana.

2018 Pro Bono Highlights

1,881 Montana attorneys provided **164,211 hours** of pro bono service to people of limited means, and organizations designed to assist people of limited means, valued at almost **\$25 million**.

Exceptional Response Rates

Annual Pro Bono Reports were received from a total of **2,829** attorneys licensed to practice law in Montana, with **2,218** indicating a practice primarily in **Montana** and **611** attorneys indicating an out-of-state practice. The reporting rate for Montana attorneys is 72 percent. The reporting rate for out-of-state attorneys is 78 percent.²

Critical Data

The Annual Pro Bono Report is designed to assist the access to justice community to:

- Identify and evaluate how Montana attorneys are helping to meet the legal needs of Montanans and improve operation of the courts by volunteering their services.
- Assess the time attorneys spend providing volunteer services, in what categories, and the representative groups to whom those services are provided.
- Assess the financial impact of pro bono contributions by Montana attorneys.
- Identify ways to improve pro bono participation and experiences among Montana attorneys.
- Identify areas of improvement for promoting participation in pro bono services and programs by Montana attorneys.
- Help assess the need for legal assistance by Montanans of moderate and limited means.

¹ *Pro bono publico* is a Latin term meaning “for the public good.”

² State Bar of Montana April 2019 Membership Information Report

Introduction and Reporting Summary

The Pro Bono Reporting process is managed jointly by the State Bar of Montana and the Montana Supreme Court Office of the Court Administrator through its Statewide Pro Bono Coordinator. The Statewide Pro Bono Coordinator was responsible for compiling and analyzing the data. This report summarizes the results of pro bono hours since the last reporting period. Pro Bono Reporting is voluntary. Lawyers are asked to report hours contributed at a substantially reduced rate or without expectation of fee. Reports are submitted through an online reporting mechanism.

This report includes information for **2,829 attorneys**, including **2,218 in-state** lawyers and **611 out-of-state** attorneys, received by April 31, 2019. This report includes data received from attorneys with a status other than active.

1,881 in-state attorneys reported pro bono hours in at least one pro bono category in 2018.³ In addition, **58 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,797** attorneys reporting Montana pro bono hours provided **85,406** hours of pro bono services *without expectation of fee* for individuals/families of limited means or organizations designed to assist people of limited means.
- **743** attorneys reporting Montana pro bono hours provided **34,419** hours of pro bono service *at a substantially reduced fee* to people/families of limited means or organizations designed to assist people of limited means.
- **724** attorneys reporting pro bono hours provided **28,637** hours of free services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **170** attorneys reporting pro bono hours provided **15,749** hours of reduced fee services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to reported pro bono hours, **696** in-state attorneys reported **20,934** hours participating in volunteer activities for improving the law, legal system or legal profession.

³ Some attorneys reported service in multiple categories.

2018 Pro Bono Hours Recapitulation

| CATEGORY | Hours | Category | Total |
|--|---------------|----------------------|----------------|
| Without expectation of fees to/for persons of limited means or charitable, religious, etc. serving people of limited means | 86,111 | | |
| Free to charitable, religious, etc. in furtherance of their purposes | <u>28,637</u> | | |
| Total Free | | 114,748 | |
| Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means | 34,419 | | |
| Reduced to charitable, religious, etc. for furtherance of their purposes | <u>15,749</u> | | |
| Total Reduced Fee | | <u>50,168</u> | |
| TOTAL PRO BONO HOURS | | | 164,916 |

Analysis of Reported Pro Bono Publico Service Value

(Does not include Volunteer Activities for improving the law, legal system, legal profession)

| | | |
|----------------------|---------------------------------------|-------------------------------|
| Free Services | 114,748 hours x \$175/hr ⁴ | \$20,080,900.00 |
| Reduced fee services | 50,168 hours x \$ 85/hr ⁵ | <u>\$ 4,264,280.00</u> |
| TOTAL | | <u>\$24,345,180.00</u> |

⁴ Hourly rate based median hourly rate of responders to the 2014 Montana State Bar Membership Survey

⁵ Reduced rate services calculated at one-half the average hourly rate

GENERAL CHARACTERISTICS AND EXPERIENCES OF REPORTING ATTORNEYS

This section utilizes the pro bono reporting to present a general overview of practice types and experiences of Montana lawyers. Because of the substantial in-state attorney reporting volume, this data provides a general descriptive measure of the overall Montana attorney population. Firm size evaluations are based on in-state reporting attorneys.

Firm Size

- 27 percent are **solo practitioners** and 86 percent reported hours in at least one category.
- 23 percent work in **government/public interest** employment and 45 percent reported hours in at least one category.⁶
- 15 percent are in **3-5 attorney** firms and 86 percent reported hours in at least one category.
- 7 percent are in a **2-attorney firm** and 91 percent reported hours in at least one category.
- 6 percent are in **6-10 attorney** firms and 81 percent reported hours in at least one category.
- 10 percent are in firms larger than 10 attorneys and collectively 89 percent reported pro bono hours in at least one category.

Years in Practice

Ninety-two percent of reporting attorneys provided a response to the number of years in practice. The **average years** of practice for reporting attorneys is **20.41**, and the **median** years in practice is **18**.

Pro Bono Experience

Approximately 94 percent of attorneys providing pro bono service rated their pro bono experience and **74 percent** of responses indicated the pro bono experience **positive or very positive** and **24 percent** indicated **neutral**. **Two percent** of attorneys indicated a **negative or very negative experience**.

BENEFICIARIES OF PRO BONO SERVICE

Pro bono reporting includes a series of questions regarding to whom pro bono service was provided and distinguishes between services without the expectation of fee and substantially reduced fee.

Without Expectation of Fee

Among lawyers who reported pro bono in any category, **1,797** (96 percent) provided services **without the expectation of fee** to people of limited means or organizations designed to assist people of limited means. **Table T.1** represents how those reported free pro bono hours were provided.

⁶ 13% state government, 8% county/city government, 2% federal government and 2% other government/public interest

Table T.1 – Pro Bono Hours - Without Expectation of Fee to People of Limited Means

| CATEGORY | Attorney Number | Total Hours |
|---|-----------------|---------------|
| Individuals referred by MLSA or one of its programs | 204 | 4,788 |
| Individuals referred by organized local or state pro bono program | 134 | 2,492 |
| Individuals through a court-based program | 114 | 2,424 |
| Individuals/families self-referred/outside organized pro bono program | 1,277 | 51,044 |
| Charitable organizations that assist people of limited means | 304 | 7,515 |
| Religious organizations that assist people of limited means | 158 | 2,440 |
| Community organizations that assist people with limited means | 219 | 4,023 |
| Civic organizations that assist people of limited means | 87 | 1,493 |
| Governmental organizations that assist people of limited means | 78 | 2,890 |
| Educational Organizations that assist people of limited means | 124 | 2,335 |
| Organizations seeking to secure/protect civil or public rights and/or liberties | 118 | 4,667 |
| TOTAL | | 86,111 |

Improving the Law or Legal System

691 reporting lawyers provided 20,939 hours participating in volunteer activities for improving the law, legal system or legal profession.

Substantially Reduced Fee

Among lawyers who provided pro bono services in any category, 676 lawyers provided 34,419 hours of services at a substantially reduced fee to people of limited means or organizations designed to assist people of limited means. Table T.2 represents how those reported substantially reduced fee hours were provided.

Table T.2 – Substantially Reduced Fee – Limited Means

| CATEGORY | Attorney Number | Total Hours |
|--|-----------------|--------------------|
| Referred by MLSA or one of its programs | 29 | 2,077 |
| Referred by organized local or state pro bono program | 22 | 1,682 |
| A court-based program | 24 | 2,036 |
| Individuals/families of limited means outside organized pro bono | 547 | 22,611 |
| Charitable organizations that assist people of limited means | 41 | 534 |
| Religious organizations that assist people of limited means | 22 | 284 |
| Community organizations that assist people with limited means | 32 | 1,950 |
| Civic organizations designed to assist people of limited means | 7 | 156 |
| Governmental organizations that assist people of limited means | 24 | 1,451 ⁷ |
| Educational Organizations that assist people of limited means | 23 | 958 |
| Organizations to secure/protect civil/public rights/ Liberties | 19 | 680 |
| TOTAL | | 34,419 |

Services to Charitable, Religious, Civic, Community, Governmental, or Educational Organizations.

Among reporting lawyers who provided pro bono services in any category, **724** provided **28,637 hours of free legal services**, and **170** provided **14,171** hours of **substantially reduced fee** service to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes, where payment of fees would greatly deplete their economic resources.

Pro Bono by legal type

Family law continues to lead the type of individual pro bono services performed at **35 percent**. Non-profit legal work has remained the second most common category for eight successive years. Estate planning replaced criminal law as the third most common category, and criminal law moved to the number five spot. There was a measurable percentage increase in employment/labor (3%) and landlord/tenant (3%). There was a measurable percentage decrease in Criminal law (4%). **Table T.3** below provides percentages in all categories.

⁷ This year's analytics allows filtering out of entries that plainly do not meet the criteria of pro bono service, such as salaried work performed for government entities, resulting in a 90 percent reduction of hours reported in this category.

Table T.3 – Pro Bono Service by Category

| CATEGORY | Percentage | CATEGORY | Percentage |
|---------------------------------|------------|-----------------------|------------|
| Family Law | 35% | Domestic violence | 7% |
| Non-profit | 20% | ADR-All types | 7% |
| Estate planning | 17% | Civil rights | 6% |
| Landlord/Tenant | 16% | Youth In Need of Care | 5% |
| Criminal law | 15% | Conservatorship | 5% |
| Business | 14% | Adoption | 5% |
| Real estate (incl. foreclosure) | 14% | Disability Rights | 4% |
| Employment/Labor | 11% | Tax | 3% |
| Probate | 11% | Self-help support | 3% |
| Guardianship | 10% | Bankruptcy | 3% |
| Elder Law | 9% | Indian Law | 3% |
| Consumer law | 8% | Social Security | 3% |
| Insurance | 8% | Military/veterans | 3% |
| All Other Categories | 8% | Health Law | 3% |
| Education | 8% | Human Rights | 2% |
| End-of-life planning | 7% | Immigration | 1% |
| | | Pro Bono Admin. | 1% |

No Pro Bono

The Pro Bono Reporting Form allowed attorneys to indicate no reportable pro bono hours and offered options to indicate reasons for no pro bono hours. **Forty-six percent** of no-pro bono hours responses came from **government/public service attorneys**. The allocation of percentages across no pro bono service are illustrated in **Table T.5**.

Table T.4 – No Pro Bono Service

| REASONS | Percent |
|---|---------|
| Do not have time to do pro bono | 29% |
| Other | 23% |
| Employment/employer prohibits pro bono | 16% |
| No opportunity given to me to provide pro bono | 11% |
| Work outside the legal profession | 11% |
| No reason | 8% |
| Lack necessary skills or training | 8% |
| Cannot afford to do pro bono | 7% |
| Only recently admitted to the practice of law | 5% |
| Specific rule/regulation prohibits participation | 5% |
| No longer practice law | 4% |
| Unemployed | 2% |
| Do not believe pro bono is my professional responsibility | 2% |

Limited Scope Representation⁸

Seventy percent of reporting attorneys responded to this question and **twenty percent** indicated they provided pro bono LSR services and **eighty percent** did not.

Improving Pro Bono Participation

Attorneys were asked what could be done to improve the ability to do pro bono work. **Table T.5** below illustrates response percentages.

Generally, responses that did not offer a viable opportunity to improve ability to do pro bono work (winning the lottery, or more hours in a day) were included in the “other” category. Thorough screening of cases (financial and merit) increased by 5% while other categories remain within 2 percentage points of previous years.

⁸ In limited scope representation, a lawyer assists a client with a specific task or tasks, including legal advice, document preparation or review, and limited court appearance.

Table T.5 – How to Improve Pro Bono Participation

| REASONS | Percent |
|--|---------|
| Additional Training/CLE | 33% |
| Opportunities for finite hour contributions (e.g. legal clinic, limited task representation) | 30% |
| Co-counsel or assistance from a paralegal or law student | 24% |
| Administrative/staff support for pro bono cases | 24% |
| Referral from an organized program | 23% |
| Experienced attorney mentor | 21% |
| Choose a case from a list with details | 20% |
| Thorough screening of cases - financial and merit | 15% |
| Opportunities in area of expertise | 13% |
| Accommodations from employer or changes to department policies | 9% |
| Other | 9% |
| Expanded opportunities in my geographic location | 6% |