

## Opinion No. 105

**Clerk of Court—Filing Fees—Uniform  
Reciprocal Enforcement of  
Support Act.**

**Held:** When Montana, as a responding state, receives for filing a petition or transcript of proceedings pursuant to the provisions of the Uniform Reciprocal Enforcement of Support Act, Chapter 222, Laws of Montana, 1951, the filing of such instruments can only be accomplished by the payment of the fee prescribed by Section 25-232, Revised Codes of Montana, 1947.

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July 14, 1952.

Mr. Michael G. Chilton  
County Attorney  
Lewis and Clark County  
Helena, Montana

Dear Mr. Chilton:

You have requested my opinion on the following question:

Does Section 25-232, R.C.M., 1947 which prescribes the fees of the clerks of the district courts, apply when Montana as the responding state receives a petition or transcript of proceedings pursuant to the provisions of the Uniform Reciprocal Enforcement of Support Act, Chapter 222, Laws of Montana, 1951?

The Uniform Reciprocal Enforcement of Support Act was approved by the National Conference of Commissioners on Uniform State Laws in September, 1950, and was enacted by the 1951 Legislative Assembly of the State of Montana as Chapter 222, Laws of Montana, 1951. Of the many states adopting this act, only one has inserted a provision specifically requiring the payment of a filing fee upon receipt of a petition or transcript of proceedings by the responding state. No mention of filing fees is made in Chapter 222, Laws of Montana, 1951.

Section 25-232, Revised Codes of Montana, 1947, provides generally for the fees which shall be collected by the clerks of the district courts of the State of Montana. Said Section 25-232, supra, provides in part:

"Fees of Clerk of District Court. At the commencement of each action or proceeding, the clerk must collect from the plaintiff the sum of five dollars, and for filing a complaint in intervention the Clerk must collect from the intervenor the sum of five dollars;

And the defendant, on his appearance, must pay the sum of two dollars and fifty cents (which includes all the fees to be paid up to the entry of judgment) \* \* \*

For filing and entering papers on transfer from other courts, five dollars. \* \* \* "

The obvious purpose of this statute was to set up a schedule of fees to be charged for filing instruments with the clerks of the district courts in the State of Montana and unless there is an exception from its operation, the filing of an instrument enumerated therein will necessitate the payment of the required fee. The Uniform Reciprocal Enforcement of Support Act does not specifically except the proceedings thereunder from the payment of the fees prescribed by Section 25-232, supra. Exceptions to the general provisions of a statute may be implied; however, an exception cannot be created by construction where none is necessary to effectuate the legislative intention. (50 Am. Jur. 452). In the interpretation of statutes, the legislative intent is the controlling factor, and in determining that intent with regard to uniform laws, it has been declared that recourse may be had to the notes of the commissioners on uniform legislation, who drafted the law. (50 Am. Jur. 480). In the Commissioners' Prefatory Note to the Uniform Reciprocal Enforcement of Support Act, it is clearly demonstrated that the commissioners contemplated the payment of filing fees for proceedings under the Act. In the Supplement to Volume 9A of Uniform Laws Annotated, p. 20, it is stated:

"In the past, the greatest difficulty in enforcing support where the parties are in different states has been the expense of travel to a distant state to litigate the rights of the destitute obligee. Under this Act (referring to the Uniform Reciprocal Enforcement of Support Act), this expense can be

reduced to filing fees plus a few postage stamps."

Therefore, it is my opinion that when Montana, as a responding state, receives for filing a petition or transcript of proceedings pursuant to the provisions of the Uniform Reciprocal Enforcement of Support Act, Chapter 222, Laws of Montana, 1951, the filing of such instruments can only be accomplished by the payment of the fee prescribed by Section 25-232, Revised Codes of Montana, 1947.

Very truly yours,  
ARNOLD H. OLSEN  
Attorney General