

VOLUME NO. 37

OPINION NO. 128

FEES - Filing fees for petitions for dissolution of marriage by a petitioner and co-petitioner; CLERKS - Clerks of Court, filing fees for petitions for dissolution of marriage by a petitioner and co-petitioner; REVISED CODES OF MONTANA, 1947 - Section 25-232.

HELD: The Clerk of the District Court cannot require a \$20 filing fee from each petitioner when one petition for dissolution of marriage is filed listing a petitioner and co-petitioner.

31 March 1978

A. Evon Anderson, Esq.
Chouteau County Attorney
Chouteau County Courthouse
Fort Benton, Montana 59442

Dear Mr. Anderson:

You have requested my opinion on the following question:

When a petition for dissolution of marriage is filed listing a "petitioner" and "co-petitioner," is it proper for the Clerk of the District Court to demand a filing fee of \$20 from each under section 25-232(1)(a), R.C.M. 1947?

Section 25-232, R.C.M. 1947 provides as follows:

- (1) The clerk shall collect the following fees:
 - (a) At the commencement of each action or proceeding, from the plaintiff or petitioner, \$20; (Emphasis added.)

The intent of the Legislature must first be determined by the plain meaning of the words used in the statute, and when the statute can be so determined, no other means of interpretation may be applied. Matter of Baier's Estate, ___ Mont. ___, 567 P.2d 943 (1977). The plain meaning of section 25-232(1)(a) establishes a \$20 filing fee for each action and not each petitioner or co-petitioner. Reference to the petitioner is secondary in the statute.

THEREFORE, IT IS MY OPINION:

The Clerk of the District Court cannot require a \$20 filing fee from each petitioner when one petition for dissolution of marriage is filed listing a petitioner and co-petitioner.

Very truly yours,

MIKE GREELY
Attorney General