



MONTANA SUPREME COURT

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# Annual Pro Bono Report March 2018

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*<sup>1</sup> 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.

## 2017 Pro Bono Highlights

More than **1,900 Montana attorneys** provided a record **164,909 hours** of pro bono service to people of limited means, and organizations designed to assist people of limited means. This represents a **25 percent increase** in attorneys reporting pro bono hours, and a **37 percent increase** in contributed hours from in a single year. Pro bono services provided are **valued** at almost **\$25 million**.

## Extraordinary Response

Annual Pro Bono Reports were received from a total of **2,857** attorneys licensed to practice law in Montana, with **2,425** indicating a practice primarily in **Montana**. This figure represents **76 percent of active Montana attorneys**.<sup>2</sup>

## Project with a Purpose

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

- Identify and evaluate the status of pro bono service in Montana by Montana attorneys.
- Assess the time attorneys spend providing pro bono and 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.

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

<sup>2</sup> State Bar of Montana January 16. 2018 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 is responsible for compiling and analyzing the data. The 2018 Pro Bono Report summarizes the results of the calendar year 2017 pro bono hours. Pro bono reporting is voluntary.

This report includes information for **2,857 attorneys**, including **2,425 in-state** lawyers and **544 out-of-state** attorneys, received by February 28, 2018. This report includes data received from attorneys with a status other than active.

**1,953 in-state** attorneys reported pro bono hours in at least one pro bono category in 2017.<sup>3</sup> In addition, **41 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,838** attorneys reporting Montana pro bono hours provided **92,457** 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 **29,639** 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 **28,642** hours of free pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **170** attorneys reporting pro bono hours provided **14,171** 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, **781** in-state attorneys reported **22,696** hours participating in volunteer activities for improving the law, legal system or legal profession.

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<sup>3</sup> Some attorneys reported service in multiple categories

## 2017 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	<b>92,457</b>		
Free to charitable, religious, etc. in furtherance of their purposes	<u>28,642</u>		
<b>Total Free</b>		<b>121,099</b>	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	<b>29,639</b>		
Reduced to charitable, religious, etc. for furtherance of their purposes	<u>14,171</u>		
<b>Total Reduced Fee</b>		<u>43,810</u>	
<b>TOTAL PRO BONO HOURS</b>			<b>164,909</b>

### Analysis of Reported Pro Bono Publico Service Value

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

Free Services	121,099 hours x \$175/hr <sup>4</sup>	\$21,192,325.00
Reduced fee services	43,810 hours x \$ 85/hr <sup>5</sup>	<u>\$ 3,723,850.00</u>
<b>TOTAL</b>		<b><u>\$24,916,175.00</u></b>

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

<sup>5</sup> 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 for the overall Montana attorney population. Ninety-seven percent of in-state reporting attorneys responded to this question.

### Firm Size

- **28** percent are **solo practitioners** and 90 percent reported hours in at least one category.
- **23** percent work in **government/public interest** employment and 47 percent reported hours in at least one category.<sup>6</sup>
- **16** percent are in **3-5 attorney** firms and 87 percent reported hours in at least one category.
- **9** percent are in a **2-attorney firm** and 91 percent reported hours in at least one category.
- **6** percent **6-10 attorney** firms and 84 percent reported hours in at least one category.
- **18** percent firms larger than ten attorneys.

The **remaining** percentage is disbursed relatively evenly throughout firm size larger than 10 attorneys and collectively 82 percent of this category reported pro bono hours in at least one category.

### Years in Practice

Ninety-one percent of reporting attorneys provided a response to the number of years in practice. The **average years** of practice for reporting attorneys is **19.90**, and the **median** years in practice is **18**. Thirty percent of reporting attorneys have been in practice for 30 years or more.

### Pro Bono Experience

Approximately 97 percent of attorneys providing pro bono service rated their pro bono experience and **77 percent** of responses indicated the pro bono experience **positive or very positive** while **21 percent** indicated **neutral**. **Two percent** of attorneys indicated a **negative or very negative experience**.

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

## BENEFICIARIES OF PRO BONO SERVICE

The Pro Bono Reporting Form contains 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 the 1,953 lawyers who reported pro bono in any category, 1,838 (94 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.

**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	264	7,003
Individuals referred by organized local or state pro bono program	170	3,237
Individuals through a court based program	113	2,174
Individuals/families self-referred/outside organized pro bono program	1,330	53,469
Charitable organizations that assist people of limited means	337	7,893
Religious organizations that assist people of limited means	177	3,395
Community organizations that assist people with limited means	224	4,367
Civic organizations that assist people of limited means	98	1,777
Governmental organizations that assist people of limited means	77	1,820
Educational Organizations that assist people of limited means	120	2,754
Organizations seeking to secure/protect civil or public rights and/or liberties	133	4,568
<b>TOTAL</b>		<b>92,457</b>

### Improving the Law or Legal System

781 reporting lawyers provided 22,696 hours participating in volunteer activities for **improving the law, legal system or legal profession**.

### Substantially Reduced Fee

Among the 1,953 lawyers who provided pro bono services in any category, 743 provided 29,639 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 substantially reduced fee hours were provided.

Table T.2 - Substantially Reduced Fee - Limited Means

CATEGORY	Attorney Number	Total Hours
Individuals referred by MLSA or one of its programs	26	962
Individuals referred by organized local or state pro bono program	35	1,178
Individuals referred through a court-based program	32	2,036
Individuals/families of limited means outside organized pro bono	517	18,833
Charitable organizations that assist people of limited means	47	1,293
Religious organizations that assist people of limited means	27	382
Community organizations that assist people with limited means	36	860
Civic organizations designed to assist people of limited means	7	156
Governmental organizations that assist people of limited means	26	2,415 <sup>7</sup>
Educational Organizations that assist people of limited means	9	255
Organizations to secure/protect civil/public rights/ Liberties	12	1,219
<b>TOTAL</b>		<b>29,639</b>

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

Among the 1,953 lawyers who provided pro bono services in any category, 724 provided 28,642 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.

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



## PRO BONO BY LEGAL TYPE

**Family law** continues to lead the category of individual pro bono services performed at **37.25 percent**. Non-profit legal work has remained the second most common category for seven successive years and criminal law was the third largest category in 2017. Increase in the number of attorneys reporting pro bono results in a number increase of attorneys providing services in each category. There was a measurable percentage decrease in family law (seven percent), and landlord/tenant (five percent), and criminal law (four percent). There was a measurable percentage increase in Alternative Dispute Resolution (five percent), and Guardianship (four percent). **Table T.3** below provides percentages in all categories.

**Table T.3 - Pro Bono Service by Category**

CATEGORY	Percentage	CATEGORY	Percentage
Family Law	37%	ADR-All Types	7%
Non-Profit	21%	Civil Rights	6%
Criminal Law	18%	Adoption	5%
Estate Planning	17%	Conservatorship	5%
Business	14%	Youth in Need of Care	5%
Landlord/Tenant	14%	Self-Help Support	4%
Real Estate/Foreclosure	13%	Disability Rights	4%
Probate	12%	Tax	4%
Guardianship	11%	Indian Law	3%
Consumer Law	10%	Military/Veterans	4%
Elder Law	9%	Human Rights	3%
Insurance	9%	Health Law	2%
End of Life Planning	8%	Social Security	2%
All Other Categories	7%	Immigration	1.5%
Domestic Violence	7%	Pro Bono Coord. Or Administration	1%
Education	7%		

## 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**. This represents a **seven percent decrease** from 2016, and a correlating increase in government/public service attorneys providing pro bono service in at least one category. The allocation of percentages across no pro bono service is illustrated in **Table T.4**.

**Table T.4 - No Pro Bono Service**

REASONS	Percent
Other	27%
Do not have time to do pro bono	26%
Employment/employer prohibits pro bono	13%
No opportunity given to me to provide pro bono	11%
Cannot afford to do pro bono	10%
Work outside the legal profession at this time	9%
Only Recent admitted to the practice of law	9%
No reason	9%
Lack necessary skills or training	6%
No longer practice law	4%
Specific rule/regulation prohibits participation	3%
Unemployed	1%
Do not believe pro bono is my professional responsibility	1%

## Limited Scope Representation<sup>8</sup>

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

<sup>8</sup> Limited Scope Representation (LSR) is a method of representation in which the lawyer and the client agree upon specific discrete tasks to be performed by the lawyer and by the client.

## Improving Pro Bono Participation

Attorneys were asked what could be done to improve the ability to do pro bono work. Forty-eight percent of reporting attorneys responded to this question, a 10 percent increase from 2016. **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.

**Table T.5 - How to Improve Pro Bono Participation**

REASONS	Percent
Additional Training/CLE	34%
Opportunities for finite hour contributions (e.g. legal clinic, limited task representation)	29%
Administrative/staff support for pro bono cases	25%
Co-counsel/paralegal/law clerk	24%
Referral from an organized program	24%
Experienced attorney mentor	21%
Choose a case from a list with details	21%
Opportunities in my area of expertise	13%
Use of office space or equipment	10%
Accommodations from employer or changes to department policies	8%
Other	8%
Expanded opportunities in my geographic location	6%