



MONTANA SUPREME COURT

---

# Annual Pro Bono Report September 2021

MONTANA SUPREME COURT  
STATEWIDE PRO BONO PROGRAM

# TABLE OF CONTENTS

EXECUTIVE SUMMARY _____	3
Pro Bono Highlights _____	3
Responses _____	3
Project Purpose _____	3
INTRODUCTION AND DATA SUMMARY _____	4
Introduction _____	4
Data Summary _____	4
Hours and Value Recapitulation _____	5
GENERAL CHARACTERISTICS OF REPORTING ATTORNEYS _____	6
Firm Size _____	6
Years in Practice _____	6
Pro Bono Experience _____	6
BENEFICIARIES OF PRO BONO SERVICE _____	7
Without Expectation of Fee to People of Limited Means _____	7
Substantially Reduced Fee to People of Limited Means _____	8
Free and Substantially Reduced to Charitable, Civic, and Community _____	8
PRO BONO BY LEGAL TYPE _____	9
NO PRO BONO _____	10

# 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.

## 2020 Pro Bono Highlights

**1,147** attorneys licensed to practice law in **Montana** provided **95,179 hours** of pro bono service to people of limited means, and organizations designed to assist people of limited means, valued at almost **\$14.5 million**.

## Montana Response Rates

Annual Pro Bono Reports were received from **1,944** attorneys licensed to practice law in Montana for an overall reporting rate of 49 percent. There are **1,556** reports indicating practice primarily in **Montana** representing a 30 percent decline for in-state reporting over three years. There are **388** attorneys indicating an out-of-state practice representing a 36 percent decline in reporting for out-of-state attorneys over three years.

## 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.

---

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

## 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 **1,944 attorneys**, including **1,556 in-state** lawyers and **388 out-of-state** attorneys, received by September 30, 2021. This report includes data received from attorneys with a status other than active.

**1,147 in-state** attorneys reported pro bono hours in at least one pro bono category in 2020.<sup>2</sup> In addition, **39 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,186** attorneys reporting Montana pro bono hours provided **56,307** hours of pro bono services *without expectation of fee* for individuals/families of limited means or organizations designed to assist people of limited means.
- **415** attorneys reporting Montana pro bono hours provided **17,663** 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.
- **404** attorneys reporting pro bono hours provided **14,539** hours of free services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **119** attorneys reporting pro bono hours provided **6,670** 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, **477** in-state attorneys reported **12,513**

---

<sup>2</sup> Most attorneys reported service in multiple categories.

hours participating in volunteer activities for improving the law, legal system or legal profession.

## 2020 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	56,307		
Free to charitable, religious, etc. in furtherance of their purposes	<u>14,539</u>		
<b>Total Free</b>		<b>70,846</b>	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	17,663		
Reduced to charitable, religious, etc. for furtherance of their purposes	<u>6,670</u>		
<b>Total Reduced Fee</b>		<b><u>24,333</u></b>	
<b>TOTAL PRO BONO HOURS</b>			<b>95,179</b>

### Analysis of Reported Pro Bono Publico Service Value

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

Free Services	93,222 hours x \$175/hr <sup>3</sup>	\$12,398,050.00
Reduced fee services	32,370 hours x \$ 85/hr <sup>4</sup>	<u>\$ 2,068,305.00</u>
<b>TOTAL</b>		<b>\$14,466,355.00</b>

<sup>3</sup> Hourly rate based median hourly rate of responders to the 2017 Montana State Bar Membership Survey

<sup>4</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 of the overall Montana attorney population. Firm size evaluations are based on in-state reporting attorneys.

### Firm Size

- 27 percent are **solo practitioners** and 87 percent reported hours in at least one category.
- 21 percent work in **government/public interest** employment and 48 percent reported hours in at least one category.
- 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 90 percent reported hours in at least one category.
- 8 percent are in **6-10 attorney** firms and 87 percent reported hours in at least one category.
- 12 percent are in firms **larger than 10 attorneys** and collectively 92 percent reported pro bono hours in at least one category.

### Years in Practice

Eighty-one percent of reporting attorneys provided a response to the number of years in practice. The **average years** of practice for reporting attorneys is **20.89**, and the **median** years in practice is **19**.<sup>5</sup>

### Pro Bono Experience

Approximately 95 percent of attorneys providing pro bono service rated their pro bono experience and **72 percent** of responses indicated the pro bono experience **positive** and **27 percent** indicated **neutral**. **Two percent** of attorneys indicated a **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, **1,251** (72 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.

---

<sup>5</sup> This represents an increase in the median years of practice by 2 percent.

**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	159	3,735
Individuals referred by organized local or state pro bono program	84	1,697
Individuals through a court-based program	67	1,776
Individuals/families self-referred/outside organized pro bono program	888	33,309
Charitable organizations that assist people of limited means	214	4,521
Religious organizations that assist people of limited means	85	1,445
Community organizations that assist people with limited means	155	2,742
Civic organizations that assist people of limited means	60	1,060
Governmental organizations that assist people of limited means	32	679
Educational Organizations that assist people of limited means	80	1,515
Organizations seeking to secure/protect civil or public rights and/or liberties	94	<u>3,828</u>
<b>TOTAL</b>		<b>56,307</b>

### Improving the Law or Legal System

**477** reporting lawyers provided **12,513** 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, **456** lawyers provided **17,663 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	2,283
Referred by organized local or state pro bono program	9	287
A court-based program	8	202
Individuals/families of limited means outside organized pro bono	325	10,527
Charitable organizations that assist people of limited means	30	309
Religious organizations that assist people of limited means	11	199
Community organizations that assist people with limited means	21	304
Civic organizations designed to assist people of limited means	8	81
Governmental organizations that assist people of limited means	22	2,453 <sup>6</sup>
Educational Organizations that assist people of limited means	8	493
Organizations to secure/protect civil/public rights/ Liberties	13	525
<b>TOTAL</b>		<b>17,663</b>

### 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 **38 percent**. **Estate planning** moved to the second highest reported category at **24 percent**, a 4 percent increase. **Non-profit** legal work moved down to the third highest category at **21 percent**, a 3 percent decrease after

<sup>6</sup> 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.

reporting at the second most common category for eight successive previous years. There was also a measurable percentage increase in landlord/tenant (3%). **Table T.3** below provides percentages in all categories.

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

CATEGORY	Percentage	CATEGORY	Percentage
Family Law	38%	Domestic violence	8%
Estate planning	24%	Education	7%
Non-profit	21%	Civil rights	7%
Landlord/Tenant	19%	Adoption	7%
Criminal law	19%	Conservatorship	5%
Business	18%	Youth in Need of Care	5%
Real estate (incl. foreclosure)	15%	Bankruptcy	5%
Employment/Labor	14%	Self-help support	4%
Probate	14%	Military Veterans	4%
Guardianship	12%	Tax	4%
Consumer law	10%	Disability Rights	4%
End-of-life planning	10%	Indian law	3%
Elder law	10%	Health law	3%
Insurance	9%	Social Security	3%
Alternative Dispute Resolution	9%	Human Rights	3%
All “other” categories	9%	Immigration	2%
		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-nine 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
Other	31%
Do not have time to do pro bono	30%
No reason	11%
No opportunity given to me to provide pro bono	11%
Employment/employer prohibits pro bono	10%
Lack the necessary skills and training	7%
Cannot afford to do pro bono	7%
Work outside the legal profession at this time	7%
Only recently admitted to the practice of law	5%
No longer practice law	4%
Unemployed	2%
Specific rule or regulation prohibits participation	1%
Do not believe pro bono is my professional responsibility	1%

### Limited Scope Representation<sup>7</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.

### 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. Referral from an organized program increased by 4% while other categories remain within 2 percentage points of previous years.

<sup>7</sup> 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	35%
Opportunities for finite hour contributions	27%
Referral from an organized program	26%
Co-counsel or assistance from a paralegal or law student	23%
Experienced attorney mentor	23%
Administrative/staff support for pro bono cases	22%
Choose a case from a list with details	20%
Thorough screening of cases - financial and merit	14%
Opportunities in area of expertise	12%
Other	10%
Expanded opportunities in my geographic location	8%
Accommodations from employer or change in department policies	8%
Use of office space or equipment	7%