



MONTANA SUPREME COURT

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# Annual Pro Bono Report September 2022

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.

## 2021 Pro Bono Highlights

1,637 attorneys licensed to practice law in Montana provided 140,934 of pro bono service to people of limited means, and organizations designed to assist people of limited means, valued at over \$20 million.

## Montana Response Rates

Annual Pro Bono Reports were received from 2,863 attorneys licensed to practice law in Montana for an overall reporting rate of 70 percent. There are 2,059 Reports indicating practice primarily in Montana representing 68 percent active-status reporting rate, a 19 percent increase for in-state reporting over 2020. Pro Bono Reports were received from 716 attorneys indicating a practice primarily out-of-state representing a 78 percent reporting rate, a 43 percent increase for out-of-state reporting over 2020.

## 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 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 areas of law, 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 among 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.”

## 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 **2,863 attorneys**, including **2,147 in-state** lawyers and **716 out-of-state** attorneys, received by August 31, 2022. This report includes data received from active-status attorneys and attorneys with a status of other than active.

**1,691** attorneys licensed in Montana **reported pro bono hours in at least one pro bono category** in 2021.<sup>2</sup>

- **1,576** attorneys reporting Montana pro bono hours provided **96,177** hours of pro bono services *without expectation of fee* for individuals/families of limited means or organizations designed to assist people of limited means.
- **652** attorneys reporting Montana pro bono hours provided **31,174** 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.
- **605** attorneys reporting pro bono hours provided **25,449** hours of **free services to charitable, religious, civic, community, governmental or educational organizations** in furtherance of their organizational purposes.
- **204** attorneys reporting pro bono hours provided **13,583** hours of *substantially reduced fee* services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to the total reported pro bono hours, **598** attorneys reported **18,053** hours **participating in volunteer activities for improving the law, legal system or legal profession.**

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

## 2022 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	70,728		
Free to charitable, religious, etc. in furtherance of their purposes	<u>25,449</u>		
<b>Total Free</b>		<b>96,177</b>	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	31,174		
Reduced to charitable, religious, etc. for furtherance of their purposes	<u>13,583</u>		
<b>Total Reduced Fee</b>		<b>44,757</b>	
<b>TOTAL PRO BONO HOURS 2022</b>			<b>140,934</b>

### Analysis of Reported Pro Bono Publico Service Value

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

Free Services	96,177 hours x \$175/hr <sup>3</sup>	\$16,830,975.00
Reduced fee services	32,370 hours x \$ 85/hr <sup>4</sup>	<u>\$ 3,804,345.00</u>
<b>TOTAL</b>		<b>\$20,635,320.00</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 pro bono reporting data 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 for reporting attorneys practicing primarily in Montana

- 28 percent are **solo practitioners**, 86 percent of whom reported hours in at least one category.
- 26 percent work in **government/public interest** employment, and 40 percent of whom reported hours in at least one category.
- 15 percent are in **3-5 attorney** firms, 81 percent of whom reported hours in at least one category.
- 12 percent are in firms **larger than 10 attorneys** and collectively 80 of them percent reported pro bono hours in at least one category.
- 8 percent are in a **2-attorney firm**, 90 percent of whom reported hours in at least one category.
- 8 percent are in **6-10 attorney** firms, 87 percent of whom reported hours in at least one category.

### Years in Practice for Attorneys practicing primarily in Montana

Ninety-four percent of reporting attorneys provided a response to the number of years-in-practice. The **average years** of practice for reporting attorneys is **20.38**, and the **median** years-in-practice is **18**.

### Pro Bono Experience

Approximately 85 percent of attorneys providing pro bono service rated their pro bono experience and **71 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 a substantially reduced fee.

### Without Expectation of Fee

Among lawyers who reported pro bono in any category, **1,576** (93 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 allocated.

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

CATEGORY	Attorney Number	Total Hours
Individuals referred by MLSA <sup>5</sup> or one of its programs	174	5,018
Individuals referred by organized local or state pro bono program <sup>6</sup>	175	9,025
Individuals through a court-based program	79	1,965
Individuals/families self-referred/outside organized pro bono program	966	33,364
Charitable organizations that assist people of limited means	244	5,310
Religious organizations that assist people of limited means	123	2,021
Community organizations that assist people of limited means	197	4,025
Civic organizations that assist people of limited means	97	1,678
Governmental organizations that assist people of limited means	79	2,316
Educational Organizations that assist people of limited means	106	1,685
Organizations seeking to secure/protect civil or public rights and/or liberties	120	<u>4,321</u>
<b>TOTAL</b>		<b>70,728</b>

### Improving the Law or Legal System

In 2022, reporting lawyers provided an additional **18,053** 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, **652** lawyers provided **31,174 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 allocated.

<sup>5</sup> Montana Legal Services Association

<sup>6</sup> Includes local law firm organized pro bono program

**Table T.2 – Substantially Reduced Fee – Limited Means**

CATEGORY	Attorney Number	Total Hours
Referred by MLSA or one of its programs	36	4,045
Referred by organized local or state pro bono program	15	329
A court-based program	21	687
Individuals/families of limited means outside organized pro bono	446	17,707
Charitable organizations that assist people of limited means	34	854
Religious organizations that assist people of limited means	19	311
Community organizations that assist people of limited means	33	521
Civic organizations designed to assist people of limited means	14	240
Governmental organizations that assist people of limited means	41	4,531 <sup>7</sup>
Educational Organizations that assist people of limited means	11	704
Organizations to secure/protect civil/public rights/ Liberties	29	1,245
<b>TOTAL</b>		<b>31,174</b>

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

Among reporting lawyers who provided pro bono services in any category, **605** provided **25,449 hours of free legal services**, and **204** provided **13,583 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 **43 percent**. **Estate planning** moved to the second highest reported category at **35% percent**. **Landlord-tenant** jumped

<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 salaried work performed for government entities, resulting in a 75 percent reduction of hours reported in this category.



over non-profit for the third highest category from the number five spot. There was 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	43%	Civil rights	10%
Estate planning	35%	Adoption	9%
Landlord/Tenant	26%	All “other” categories	8%
Non-profit	22%	Youth in Need of Care	7%
Probate	23%	Bankruptcy	6%
Criminal law	22%	Disability Rights	5%
Real Estate (incl. foreclosure)	20%	Self-Help Support	5%
Business	20%	Education	5%
Elder Law	19%	Indian Law	4%
End-of-life planning	16%	Military/Veterans	4%
Guardianship	15%	Social Security	4%
Employment/Labor	14%	Tax	4%
Alternative Dispute Resolution	11%	Health law	2.5%
Consumer Law	11%	Human Rights	2%
Conservatorship	10%	Immigration	2%
Insurance	10%	Pro Bono Admin.	1%
Domestic Violence	10%		

## 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
Do not have time to do pro bono	35%
“Other” reasons <sup>8</sup>	25%
Employment/employer prohibits pro bono	11%
No reason	11%
No opportunity given to provide pro bono	10%
Cannot afford to do pro bono	7%
Work outside the legal profession at this time	6%
Lack necessary skills or training	6%
Only recently admitted to the practice of law	7%
No longer practice law	4%
Specific rule or regulation prohibits participation	4%
Do not believe pro bono is my professional responsibility	2%
Unemployed	2%

### Limited Scope Representation<sup>9</sup>

Ninety-one percent of reporting attorneys providing free or reduced fee services responded to this question and **twenty-five percent** indicated they provided pro bono LSR services and **seventy-five percent** did not. Those providing LSR services **increased by five percent** over the previous year.

### 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 not offering a viable opportunity to improve the ability to do pro bono work (winning the lottery, or more hours in a day) were included in the “other” category. Choosing a case from a case list with case details increased by 4 percent while other categories remain within 2 percentage points of previous years.

<sup>8</sup> Those entered as other can generally be captured in one of the available categories

<sup>9</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**

DESCRIPTION	Percent
Additional Training/CLE	35%
Opportunities for finite hour contributions	30%
Administrative/staff support for pro bono cases	26%
Choose a case from a list with case details	24%
Co-counsel or assistance from a paralegal or law student	24%
Referral from an organized pro bono program	22%
Experienced attorney mentor	19%
Thorough screening of cases - financial/merit	18%
Opportunities in my area of expertise	14%
Expanded opportunities in my geographic location	8%
Other	6%
Use of office space or equipment	6%
Accommodations from employer or change in department policies	6%