

# State of Montana



## DISTRICT COURT COUNCIL

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**Minutes of July 19, 2002  
Old Livestock Building  
1310 East Lockey  
Helena, MT 59620**

**DCC Voting Members Present:**

Chief Justice Karla M. Gray, Montana Supreme Court  
The Honorable Diane Barz, District Court Judge, 13<sup>th</sup> Judicial District  
The Honorable Ed McLean, District Court Judge, 4<sup>th</sup> Judicial District  
The Honorable John Warner, District Court Judge, 12<sup>th</sup> Judicial District

**DCC Non-voting Members Present:**

Mike Hutchin, Lake County Commissioner, Polson  
Lori Maloney, Clerk of the District Court, Butte  
Vickie Pratt, Court Reporter, Helena  
Glen Welch, Juvenile Probation Officers Association, Missoula

**Staff:**

Rick Lewis, Supreme Court Administrator  
Beverley Boyd, Court Services Director  
Dan Chelini, Information Technology Director  
Beth McLaughlin, Human Resource Director  
Lisa Smith, Administrative Services Director  
Shelly Hinson, Administrative Assistant

**Guests:**

Gordon Morris, Montana Association of Counties (MACo), Helena  
Bonnie Olson, District Court Administrator, Flathead County, Kalispell

## **I. Welcome**

The District Court Council met on Tuesday, July 19, 2002, at 8:00 a.m. at the Old Livestock Building, 1310 East Lockey, Helena, MT 59620. Chairperson Chief Justice Karla M. Gray called the meeting to order. A quorum being present, the meeting duly convened and business was transacted as follows:

## **II. Approve April 19<sup>th</sup>, May 10<sup>th</sup>, and June 11<sup>th</sup>, 2002 DCC Minutes**

**II. (a) Motion to Adopt:** Judge John Warner, District Court Council Member, moved to adopt the April 19, 2002 District Court Council minutes as presented. Judge Ed McLean seconded. Judge McLean called the question. No further discussion. Motion passed unanimously.

The May 10, 2002 minutes were tabled until the August 16<sup>th</sup> meeting to provide additional time for review by the District Court Council.

**II. (b) Motion to Adopt:** Judge Ed McLean, District Court Council Member, moved to adopt the June 11, 2002 District Court Council minutes as presented. Judge John Warner seconded. Judge McLean called the question. No further discussion. Motion passed unanimously.

**III. Guaranteed Share:** Lisa Smith explained the appropriation. The 1999-fixed cost percent was used to report the guaranteed share for the 2003 budget for each Judicial District. The budget sheets reflecting the guaranteed share, will be sent out to the districts with a cover letter of explanation. Districts will be asked to review and provide additional information regarding division details (Juvenile Probation, Court Reporter, District Court Administration, and Youth Court).

The 2003 appropriation for fixed costs shortages in the guarantee share allocation in the amount of \$118,639 was discussed to determine how best to cover the shortages. The variable costs and equipment costs were discussed at length as two possibilities that could be used to cover shortages.

**a) Motion to Adopt:** Judge Ed McLean, District Court Council Member, moved to take money to be used for the \$118,639 shortage from the equipment budget. Judge Diane Barz seconded. The equipment category was discussed between the council members. After discussion, Judge Diane Barz withdrew her second motion. Chief Justice Gray asked if there was a second motion. Judge Ed McLean's motion died for lack of a second motion.

**(b) Motion to Adopt:** Judge Ed McLean, District Court Council Member, moved to cover \$118,639 shortage from the variable cost budget. Judge John Warner seconded. Judge John Warner called the question. Motion carried.

Discussion between Bonnie Olson and Lisa Smith of how the 6% that is held out of the budgets will be available if there is an emergency for operating costs. Lisa made a clarification that the 6% was included in the budgets.

## **V. SB176 Clean Up Legislation**

**Section 5(3)(F)** Proposed amendment: Delete “Transcript fees”, since they are set by Section 16(1).

**Motion to adopt:** Judge John Warner moved to not propose the amendment. Judge Ed McLean seconded. Judge Ed McLean called the question. No discussion. Motion carried.

**Section 12(2)(3):** Proposed amendment: Clerks are to issue county warrants for witness fees, but fees are to be paid by the state.

**Motion to adopt:** Judge Ed McLean moved to adopt the proposed amendment. Judge John Warner seconded. There was discussion of carbon copy in the language. Judge Diane Barz amended the motion to remove the unnecessary language. Judge John Warner seconded the amended motion. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 14(1):** Proposed amendment: Delete “and holds office at the pleasure of the appointing judge.”

**Motion to adopt:** Judge Ed McLean moved to adopt the proposed amendment. Judge John Warner seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 14(4)(c):** Proposed amendment: After “workers’ compensation coverage” add, “unless an exemption from workers’ compensation coverage has been obtained pursuant to section 39-71-401, MCA.”

**Motion to adopt:** Judge John Warner moved to adopt the proposed amendment. Judge Ed McLean seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 18:** Proposed amendment: After “district court expenses listed in 3-5-901,” add “and any other statutorily assumed or reimbursable district court costs and expenses.”

**Motion to adopt:** Judge John Warner moved to adopt the proposed amendment. Judge Diane Barz seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 19(2)(3):** Proposed amendment: Clerks are to issue county warrants for jury fees, but fees are to be paid by the state.

**Motion to adopt:** Judge John Warner moved to adopt the proposed amendment. Judge Ed McLean seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 37(1)(2):** Proposed amendment: (1) Repeal appointment of assessment officers and qualifications. (2) Delete. Duties of assessment officers are covered by the Compensation and Classification Plan.

**Motion to adopt:** Judge Ed McLean moved to adopt the proposed amendment. Judge John Warner seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 34 – 36:**

Discussion of proposed changes for Juvenile Probation to delete section 34, Section 41-5-1701 and Section 35, Section 41-1702 and amend with Section 41-5-1703.

**Motion to adopt:** Judge Ed McLean moved to adopt the proposed deletions of Sections 34, 35, and 36. Judge John Warner seconded. Chief Justice Karla Gray explained to the council that Section 36 could not be deleted. Judge Ed McLean amended the motion to remove Sections 34 and 35 and we adopt the proposed amendments to Section 36. Judge John Warner seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Section 41-5-1703, MCA and Section 41-5-1706, MCA:**

**Motion to adopt:** Judge Ed McLean moved to adopt the proposed changes to Section 41-5-1703 and Section 41-5-1706. Judge John Warner seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

**Sections 3-5-123 - 3-5-126:**

Section 3-5-123 provides the county with the authority to approve the appointment of the standing master.

The proposed change: Repeal 3-5-123 - positions are covered by the Judicial Branch personnel plan and positions duties are detailed in the classification and compensation plan.

**Motion to adopt:** Judge John Warner moved to repeal Section 3-5-123. Judge Ed McLean requested tabling the motion to review removing county approval of Standing Masters until next District Court Council meeting. Judge John Warner withdrew his motion.

Chief Justice Karla Gray asked if the District Court Council should propose making substantive amendments to SB176. She stated she did not wish to at this time. The District Court Council members discussed the matter and agreed with Chief Justice Karla Gray.

**Motion:** Judge Diane Barz moved to authorize staff to draft and forward proposed changes of SB176 to the Legislature. Judge Ed McLean seconded. Judge Ed McLean called the question. No further discussion. Motion carried.

## **Section 62 – Involuntary Commitment**

The Council reviewed Section 62, which directs the District Court Council to itemize various costs of Involuntary Commitment and Youth Court proceedings to see what is County and State cost.

Expert witness fees were discussed as to whether they were court costs or a cost of an executive function of law enforcement.

**Motion:** Judge Ed McLean moved to advise the Legislature that Involuntary Commitment costs are not a cost of proceedings, including witnesses, transportation and commitment, are not a district court costs. Chief Justice Karla Gray informed Judge Ed McLean that the language in Section 62 directs the council to list what “are” county costs. Judge John Warner amended the motion to the only appropriate district court costs are conducting the court hearing, jury costs, and providing the staff for the hearings. Judge Ed McLean withdrew his motion and suggested rephrasing it to say, “the proper court costs are the attendance of the judge, the court reporter and necessary court expenses such as jury costs and the hearing.” Judge Ed McLean seconded the amended motion. Judge John Warner amended his motion to add court appointed counsel. Judge Diane Barz seconded the amended motion. Judge Ed McLean called the question. Chief Justice Karla Gray suggested formatting this proposal for Section 62 in Legislative format. Motion carried.

## **Section 62 – Youth Court**

Chief Justice Karla Gray suggested for the District Court Council to review the Youth Court statutes so the costs can be determined at the next District Court Council meeting. Executive and court costs currently exist according to statute and policy.

## **IX. Other Business**

Chief Justice Karla Gray scheduled the next District Court Council meetings with the District Court Council members for August 16, September 13, October 11, and November 15, 2002.

## **VII. Human Resources Update**

Beth McLaughlin reported that the first payroll was completed yesterday. Leave balances are enormously large on new state assumed employees. Electronic time entry went fairly smooth. The Classification and Compensation Plan was approved by the Justices and will be effective July 2003. Local onsite visits will need to be done for the Classification and Compensation Plan around August, September and October to find out what problems are out there and how we can fix them. A questionnaire was sent out to the judges regarding court reporters. As a result, the time spent on transcripts exceeding 40 hours cannot be charged by court reporters.

## **VIII. Information Technology Update**

Dan Chelini reported that 30% of the state employees are not connected. Dan will meet with ITSD in August for continuing contracting their services to help with standardization of hardware, software and network connections for District Court Assumption.

There have been two meetings of the Commission On Technology. The first meeting was to develop and publish an Information Technology plan. The second meeting focused on how to adopt the plan, the vision, objective and goals and how to identify the priority of those projects. The group hopes to complete the plan by November.

JAIG grant monies were successfully received in the amount of \$40,000 for the Juvenile Probation Officers.

The IT staff will be moving to 301 S. Park in the Old Federal Building, Suite 328 on August 8, 2002.

## **IX. Other Business (cont.)**

Mike Hutchin asked if the council's terms have been expired and new people have been appointed. Chief Justice Karla Gray mentioned Vickie Pratt now filled the court reporter position held by Tim Smith.

## **X. Adjournment**

Meeting adjourned at 12:30 PM by order of the Chair, Chief Justice Karla Gray.