

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on January 31, 1989,
at 8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON HOUSE BILL 321

Presentation and Opening Statement by Sponsor: Rep. Spaeth,
District 84. This bill will require uniform commercial
code financing statements to include the social
security number or tax identification number of the
debtor. The reason for this is that there are a lot of
names which are the same in the state of Montana.

List of Testifying Proponents and What Group They Represent:
Garth Jacobson, Secretary of State Office

List of Testifying Opponents and What Group They Represent:
None

Testimony: See exhibit 1 for Mr. Jacobson's written
testimony

Questions From Committee Members: None

Closing by Sponsor: Rep. Spaeth asked for a do pass on HB
321.

DISPOSITION OF HOUSE BILL 321

Motion: Rep. Bachini moved DO PASS.

Discussion: None

Amendments and Votes: None

Recommendation and Vote: HB 321 received DO PASS vote of 15-1.

HEARING ON HOUSE BILL 434

Presentation and Opening Statement by Sponsor: Rep. Rice, District 43. This bill may seem like a strange bill as you read over it. It addresses a problem that results from a recent change we have seen in the telephone industry in the last few years. This bill will clarify telecommunications contracts as not being insurance contracts; amends Section 33-1-201, MCA; and provides an immediate effective date. It provides simple service agreements for inside wiring of your telephones.

List of Testifying Proponents and What Group They Represent:

Gene Phillips, Northwestern Telephone Co., Kalispell
Barry Hjort, USWC

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mr. Hjort stated that USWest is in support of HB 434. In the case of inside wiring it will avoid a situation where the companies will be regulated not only by the Public Service Commission but also by the insurance commissioner's office. In 1982 the FCC deregulated inside wiring. In 1986 Montana PSC deregulated inside wiring. The effect of this deregulation was essentially that various contractors of the consumers choosing could install the inside wire in individual homes. The affect of that from USWest's perspective is that we have been advised by the insurance commissioner that we do potentially have a problem with the insurance. If you have a service contract with the people you buy a product from this is not subject to regulation by the insurance commissioner, but if you buy a product and have a service contract with someone else, this is subject to regulation by the insurance commissioner's office. If this bill is passed we will be able to provide service for inside wiring to customers and avoid a great deal of dissatisfaction and uncertainty if we are exempt from the regulation and insurance laws.

Mr. Phillips stated that his company also supports this

bill.

Questions From Committee Members: None

Closing by Sponsor: Rep. Rice closed by asking the committee to give this bill a do pass.

DISPOSITION OF HOUSE BILL 434

Motion: Rep. Bachini moved DO PASS.

Discussion: None

Amendments and Votes: None

Recommendation and Vote: HB 434 DO PASS.

HEARING ON HOUSE BILL 326

Presentation and Opening Statement by Sponsor: Rep. Rice stated that this bill will exempt certain paralegals, legal assistants, and law students from the laws regulating private investigators and patrolmen; and amends Section 37-60-105, MCA.

List of Testifying Proponents and What Group They Represent:

Carol Bronson, Certified Legal Assistant, Great Falls
Lori Johns, Paralegal, Butte
Becky Copple, Legal Assistant, Billings
Sue Weingartner, MT. Defense Trial Lawyers
Mike Sherwood, MT Trial Lawyers Assoc.
Jolene Miller, First Vice President, National
Federation of Paralegal Assoc., Deerfield, IL
Karen B. Judd, CLA, President, NALA, Tulsa, OK

List of Testifying Opponents and What Group They Represent:

Clayton Bain, Helena
M. T. Mangan, Helena
Mark Pfgetzger, Great Falls

Testimony: Ms. Copple stated that she is in support of this bill, see exhibit 1 for her written testimony.

Ms. Bronson submitted Ms. Miller's written testimony.
Ms. Miller is in favor of this bill, see exhibit 2 for her written testimony.

Ms. Bronson submitted Ms. Judd's written testimony.

Ms. Judd is in support of this bill, see exhibit 3 for written testimony.

See exhibit 4 for Ms. Bronson's written testimony supporting this bill.

Mr. Sherwood stated that the MTLA supports HB 326, see exhibit 5 for written testimony.

Ms. Johns is a free lance paralegal and has her own office. However, she does work for attorneys throughout the state of Montana. She said the definition of a paralegal is a person with legal skills, but who is not an attorney, who works under the supervision of a lawyer or who is otherwise authorized by law to use those legal skills. This bill would enable us to go ahead with our current work load. A paralegal does investigative work as part of their job.

Ms. Weingartner stated that attorneys, paralegals, and law students have an employee/employer relationship and paralegals and law students work under direct supervision and at the direction of the attorney who is ultimately responsible for their actions. We feel that this is an appropriate exemption and urge your support on HB 326.

Mr. Mangan stated that he has been involved in investigation for years. He is a former FBI agent. Private investigators work primarily for lawyers. Our profession started to be licensed in 1971, at that particular time those in the industry opposed regulation and licensure. But it came about as a concern for the protection of the public. We do not have the ability to regulate any other profession or industry. The law we work under specifically states the kinds of activities that investigators perform, yet to perform those activities they must be licensed under laws passed by the legislature and regulated by the board of private investigators and security. In doing some research on this bill, I believe that I am probably a paralegal in reading the duties that they perform and in talking with other members of our association. If that is the case, the solution is plain and simple, in that if we are paralegals, we do not have to be licensed under the investigator's law. We are not necessarily opposed to this bill but we believe there should be a definition of terms. In our law it is very specific that if you investigate you will have certain qualifications, you will present these qualifications to the board of private investigators and security operators, you will take an

examination, the board states the qualifications and experience you must have to investigate. Lawyers and private investigators are licensed and with the exception of a very few they are under the supervision of an attorney. Where do you draw the line on private investigating and investigation conducted by paralegals or legal interns? Our concern is that you look at this bill and the provisions of the bill that is set up by the board of private investigators and security operators and determine what our duties are, where they overlap paralegals and legal interns. We feel that the activities of a paralegal should be defined in this bill and at some point they may want to look at certification or licensing to indicate the proficiency that they have in their area in providing service to the public.

Mr. Bain stated that he opposes this bill. The problem with the bill it does not define who paralegals are, who legal assistants, and nothing in Montana codes that has a definition regarding this. Over the years the board has developed rules and regulations that the legislation has allowed us to use to define the various activities of the people we license. This is one activity that the board has never had to deal with in the past. We have never required paralegals to be licensed as private investigators or anything of that sort. I have no understanding why the bill is before this committee because it has never been a problem in the past, so why is it a problem now. What brought this up that we need a bill to exempt these particular people. In speaking with the director of the paralegal program at the College of Great Falls, she informed me that there is nothing in the curriculum that trains a paralegal to be a private investigator. It trains people to work for lawyers. The program at Rocky Mountain is the same type of program, training these people to do legal work, not private investigating. We need some kind of definition as to what these people do, what their qualifications are, what their educational background is. If the committee decides to pass this bill, the board should be given some kind of authority to develop some rules regarding what activities paralegals are involved in, where it crosses over the line to private investigating, something like that.

Questions From Committee Members: Rep. Blotkamp stated that the bill is exempting paralegals and legal assistants from something that we have no idea what we are exempting them from. He asked Mr. Mangan if he could help us out there. Mr. Mangan said under the

bill which governs private investigators, individuals are required to be licensed, and individuals working for law firms as investigators are not employees of those firms. The duties and qualifications for paralegals, and legal assistants should be set forth so one knows what they are. The history of the private investigator's bill was based on the protection of the public and if you have individuals doing investigating they are qualified to do this. It would appear here that the profession of a paralegal or legal assistant would want to further their profession by having a definition and qualifications in order to certify or establish this person is qualified to do paralegal work.

Rep. Bachini stated that he had heard in testimony that there are no problems, so why do we have this bill here before the committee. Rep. Rice said that the practical matter is not a problem, I don't think there are problems with paralegals and the things they do. First, I think there is a problem with the statute in that it is inconsistent in the way it is written and inserting this exception may make it consistent with the rest of the statute which lays out the licensing requirements for these different positions. It doesn't fit paralegals. Second, the only other problem might be that we have private investigators out there pointing fingers at paralegals and saying you need to be licensed. These people are complaining to the paralegal's bosses, the attorneys, saying you need to license this person. So, it is creating a conflict in the field, but not in the terms of a real legal conflict.

Rep. Kilpatrick asked what the fee was to license a private investigator or a paralegal. Mr. Bain said the charge was \$200 for the initial fee and after that it reduces for renewals.

Rep. Bachini asked Ms. Johns if she has had problems under the current jurisdiction? Can you speak of any? Ms. Johns said she felt that unless this bill is passed we cannot speak with witnesses, do our job performance, we cannot go out to the site and take any measurements, nor work the case. Rep. Bachini asked if she was not under the private investigator classification? Ms. Johns said she was. Rep. Bachini then asked her if that does not give her the authority to do what you just mentioned you want to be able to do? Ms. Johns said not unless this bill is passed. One problem I have is that I work for several lawyers as basically a free lance paralegal, if I go out and look for work

from other lawyers that I am not working for now, they may have a problem in hiring me due to paralegals not being exempt from the private investigator bill.

Rep. Wallin asked Ms. Johns if her charges were less than the private investigator's, is this mainly the big advantage that you have? Ms. Johns did not know primarily what private investigators charge. Paralegals range from \$12 to \$20 per hour. She charges \$15 per hour. When an attorney has a paralegal in the firm, he has you on a salary. This is easier for you to just go out and work the case for him. She did not know what the salary for a paralegal employed by a lawyer was, but she had heard some were paid \$2,000 per month. Rep. Wallin asked the same question of Mr. Mangan. Mr. Mangan said that private investigators rates were from \$15 to \$40 per hour.

Rep. Simon asked Mr. Bain, if on his board, they were currently licensing paralegals? Mr. Bain said they were not.

Rep. Pavlovich asked Mr. Mangan if a P.I. had to go to a college or school to learn this work? Mr. Mangan said there were requirements that the private investigator have three years of education and/or experience as an investigator before they can be licensed. Rep. Pavlovich asked Mr. Rice if he knew of any paralegal that carries a weapon? Mr. Rice said he did not. Rep. Pavlovich asked the requirements for a person to be a paralegal? Mr. Rice said that in the profession generally there is no one set educational standard for paralegals. Different firms probably have different standards, but the trend is you want a paralegal who has been educated and have some experience in the legal field.

Rep. Johnson asked Mr. Bain if there was any mention in the paralegal curriculum at Rocky Mountain of investigating, interviewing or getting evidence. Mr. Bain said he only knew of the College of Great Falls not Rocky Mountain. The private investigators can take similar courses as what is offered to paralegals. The courses that private investigators have include investigative procedures, not much of what paralegals have offered.

Rep. Steppler asked Ms. Bronson if there were any paralegals certified in the state of Montana. Ms. Bronson said there are five or six people certified as paralegals. There is a 2-day test which covers investigation, writing skills, judgment and analytical

ability, five areas of substance of law, this is a difficult, time consuming test. It gives acknowledgement to those people who have the experience and training to be qualified with having advanced knowledge. It is a nationwide certification program, but particularly in the west it is not stressed. Rep. Steppler asked Ms. Bronson, if along these same lines, would it be better if there was a certifying program for paralegals in the state of Montana to insure that the people are getting the same type of legal information? Rep. Steppler asked if there were any high school graduates doing paralegal work? Ms. Bronson said she knew of no high school graduates that are out there doing paralegal work, it takes skill and training to do these tasks. If this person acted in an inappropriate manner you would report that attorney because he is responsible for people he has doing legal work for him.

Rep. Bachini asked Ms. Bronson if she performed any of the following duties: securing evidence to be used before any courts or officer or investigating committee, she said if she did investigation it would be as background to learning who was involved and that sort of thing. Very rarely would she be testifying.

Closing by Sponsor: Rep. Rice stated in closing that a private investigator is an independent contractor who contracts and then provides services. He goes out and does his work, the attorney is not responsible, he is doing something on his own, he is his own business owner, he runs a separate business and this bill does not affect that. Under the definition of such he is not a paralegal and we are not addressing that situation. If you pass this bill you are not exempting paralegals from all regulation. Attorney's offices and the practice of law is regulated by the supreme court and there are things we can and can not do. Although paralegals are not directly accountable to the supreme court, they have to abide by the same requirements and restrictions that we do, because we can't do them. He asked the committee to give HB 326 a do pass.

DISPOSITION OF HOUSE BILL 326

Motion: Rep. Smith moved DO PASS. Rep. Nelson moved to include the job description of paralegals.

Discussion: Paul Verdon said in order to be able to include the job description that Section 37-60-101 will have to be amended.

Amendments and Votes: Rep. Smith moved DO PASS. See the attached 4 page report on the amendments to this bill. The amendments for HB 326 DO PASS unanimously.

Recommendation and Vote: Rep. Smith moved DO PASS as amended. HB 326 DO PASS as amended unanimously.

DISPOSITION OF HOUSE BILL 321

Motion: Rep. Bachini moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 321 DO PASS 15-1 vote.

DISPOSITION OF HOUSE BILL 434

Motion: Rep. Bachini moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 434 DO PASS unanimously.

DISPOSITION OF HOUSE BILL 318

Motion: Rep. Thomas moved DO PASS.

Amendments, Discussion, and Votes: Rep. Bachini asked if we needed a statement of intent. Rep. Pavlovich said one was not needed.

Recommendation and Vote: HB 318 DO PASS unanimously.

DISPOSITION OF HOUSE BILL 319

Motion: Rep. Johnson moved DO PASS.

Amendments, Discussion, and Votes: Rep. Kilpatrick asked if the place of death is known, the certificate shall be filed within a time frame prescribed by the department and you can't inter the body until you have a signed certificate. Are we saying actually that if some one dies you can't bury them the next day? Do you have 2 or 3 days to hunt for a certificate or what? Rep. Pavlovich said in the bill the 3 days was stricken and now it says a time frame prescribed by the department. Rep. Kilpatrick said they were talking of a week. Rep.

Thomas said they were talking within a week. A new section and statement of intent were added as an amendment.

Rep. Bachini moved the statement of intent and the amendments. The amendment passed unanimously.

Recommendation and Vote: HB 319 DO PASS as amended unanimously.

DISPOSITION OF HOUSE BILL 247

Motion: Rep. Bachini moved a reconsideration on this bill.

Amendments, Discussion, and Votes: The reason he asked for this motion or request is because of the arguments he heard on the floor of the house the other day relating to the house resolution that Rep. Bardanouve has and at that time I just wished we had this bill on the floor to debate it on its merits. I believe the bill would have passed because we were saying in relation to the house joint resolution that the rates would be set in Washington, whereas we should be setting the rates closer to our area. This is what this does, it addresses the rate making in the state of Montana within a regional area or whatever they would set up. For this reason I ask that we reconsider our action on HB 247. Rep. Thomas said this does not have to do with the McCarrin Ferguson Act. It has to do with, as the bill states, noncompetitive lines and volatile lines of insurance which are not defined in the bill. The key provision of this bill is section 6, page 4, that requires an insurance company trying to sell a product in the state which would be called a volatile and non competitive line of insurance for them to pay for the rates which they may be the only policy sold in the state. We are going to say you pay for the rates then. You take that out, I don't care what you do, this bill is non issue other than that. It won't have any impact on anyone except in section 6. Section 6 will eliminate products sold in Montana. I don't care what else you say, or what any one else tells you, that is what section 6 will do. Rep. Thomas asked if we could have a person to come up from an insurance company and spend a few minutes with the committee and go through how they rate insurance. Rep. Pavlovich said this would be fine with him, if Rep. Thomas would make arrangements with them we could schedule them sometime, maybe Friday after we are through with our hearings. We can take some action here, at least, bring it off the dead list or let it stay there.

Recommendation and Vote: The committee gave a majority vote to reconsider this bill.

DISPOSITION OF HOUSE BILL 343

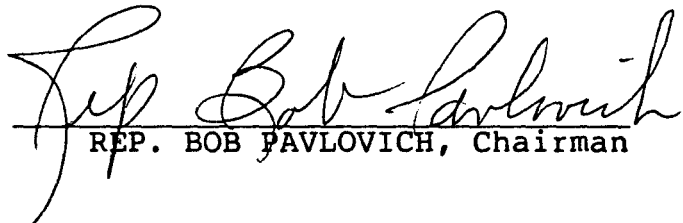
Motion: Rep. Hansen moved DO PASS.

Amendments, Discussion, and Votes: Rep Pavlovich said it seems the way the bill is worded that they can charge twice. Rep. Hansen didn't think so. Rep. Bachini moved an amendment to page 6, line 7 strike (1), page 6, line 8 to change \$30 to \$50 and page 6, line 9 change 85% to 90%, page 6, line 15 following 50-50-102 strike "a" insert "in addition to the", following "\$50" strike "plus" and insert "provided in subsection (1)" and finally page 6, line 13 strike subsection (2) in its entirety. The amendments DO PASS 14-2.

Recommendation and Vote: HB 343 DO PASS as amended 8-8 tie vote.

ADJOURNMENT

Adjournment At: 11:00 a.m.


REP. BOB PAVLOVICH, Chairman

BP/sp

2603.min

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 1 31 89

NAME	PRESENT 1:30	ABSENT	EXCUSED
PAVLOVICH, BOB	✓ ✓		
DeMARS, GENE	✓ ✓		
BACHINI, BOB	✓ ✓		
BLOTKAMP, ROB	✓ ✓		
HANSEN, STELLA JEAN	✓ ✓		
JOHNSON, JOHN	✓ ✓		
KILPATRICK, TOM	✓ ✓		
McCORMICK, LLOYD "MAC"	✓ ✓		
STEPPLER, DON	✓ ✓		
GLASER, BILL	✓ ✓		
KELLER, VERNON	✓ ✓		
NELSON, THOMAS	✓ ✓		
SIMON, BRUCE	✓ ✓		
SMITH, CLYDE	✓ ✓		
THOMAS, FRED	✓ ✓		
WALLIN, NORM	✓ ✓		
PAUL VERDON	✓ ✓		

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

DATE 1/31/39 BILL NO. 319 NUMBER

[illegible]

TALLY

✓
16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: To pass as amended

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

DATE 1/31/89 BILL NO. 326 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Gene DeMars		
Bob Bachini		
Rob Blotkamp		
Stella Hansen		
John Johnson		
Tom Kilpatrick		
Lloyd McCormick		
Don Steppler		
Bill Glaser		
Vernon Keller		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Fred Thomas		
Norm Wallin		

TALLY

16

Sue Pennington
Secretary

Bob Paylovich
Chairman

MOTION:

do pass as amended

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

DATE 1/31/89 BILL NO. HB 300 NUMBER 1

NAME	AYE	NAY
Bob Pavlovich		
Gene DeMars		
Bob Bachini		
Rob Blotkamp		
Stella Hansen		
John Johnson		
Tom Kilpatrick		
Lloyd McCormick		
Don Steppler		
Bill Glaser		
Vernon Keller		X
Thomas Nelson		X
Bruce Simon		X
Clyde Smith	X	
Fred Thomas	X	
Norm Wallin		X

TALLY

12 4

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: See minutes & info
on 2/3/89

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

DATE 1/21/89

BILL NO. 318

NUMBER _____

NAME	AYE	NAY
Bob Pavlovich		
Gene DeMars		
Bob Bachini		
Rob Blotkamp		
Stella Hansen		
John Johnson		
Tom Kilpatrick		
Lloyd McCormick		
Don Steppler		
Bill Glaser		
Vernon Keller		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Fred Thomas		
Norm Wallin		

TALLY

16 _____

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: to pass

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

DATE 11/31/89 BILL NO. 434 NUMBER

[illegible]

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: _____

ROLL CALL VOTE

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

DATE

1/31/39

BILL NO.

321

NUMBER

NAME	A YE	NAY
Bob Pavlovich		
Gene DeMars		
Bob Bachini		
Rob Blotkamp		
Stella Hansen		
John Johnson		
Tom Kilpatrick		
Lloyd McCormick		
Don Stepler		
Bill Glaser		X
Vernon Keller	X	
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Fred Thomas		
Norm Wallin		
	✓	

TALLY

15

1

Sue Pennington
Secretary

Bob Paylovich
Chairman

MOTION:

do pass

21-89
1:05
70

STANDING COMMITTEE REPORT

February 1, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 319 (first reading copy -- white) do pass as amended .

Signed: _____
Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 1, line 11.
Following: line 9

Insert: "Statement of Intent

A statement of intent is required for [this act] because it authorizes the department of health and environmental sciences to prescribe the time frame within which a certificate of death must be filed. It is the intent of the legislature that if the department adopts new rules or amends existing rules on the subject of the provisions of this act, the department's actions must adhere to and be consistent with the requirements of the Montana Administrative Procedure Act in regard to notice and hearing."

2. Page 1.
Following: line 20

Insert: "NEW SECTION. Section 2. Extension of Authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act]."

STANDING COMMITTEE REPORT

February 1, 1989

Page 1 of 4

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 326 (first reading copy -- white) do pass as amended .

Signed: _____
Robert Pavlovich, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "PATROLMEN,"

Insert: "DEFINING "PARALEGALS" AND "LEGAL ASSISTANTS","

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 37-60-101,"

Following: "37-60-105,"

Insert: "AND 37-60-307,"

3. Page 1, line 10.

Following: line 9

Insert: "Section 1. Section 37-60-101, MCA, is amended to read:

"37-60-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means any individual employed by a contract security company or a proprietary security organization to respond to security alarm system signals.

(2) "Armed carrier service" means any person who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.

(3) "Armed private investigator" means a private investigator who at any time wears, carries, possesses, or has access to a firearm in the performance of his duties.

(4) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, carrier service guard,

or alarm response runner and who at any time wears or carries a firearm in the performance of his duties.

(5) "Armored car service" means any person who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

(6) "Board" means the board of private security patrolmen and investigators provided for in 2-15-1891.

(7) "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.

(8) "Contract security company" means any person who installs or maintains a security alarm system, undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of the details of the services rendered.

(9) "Department" means the department of commerce provided for in 2-15-1801.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes or wrongs committed or threatened against the United States or any state or territory thereof.

(11) "Licensee" means a person licensed under this chapter.

(12) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by a lawyer, law office, governmental agency, or other entity or who may be authorized by administrative, statutory, or court authority to perform this work.

~~(12)~~ (13) "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

~~(13)~~ (14) "Private investigator" means a person other than an insurance adjuster who for any consideration whatsoever makes or agrees to make any investigation with reference to:

(a) crimes or wrongs done or threatened against the United States or any state or territory thereof;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

~~(14)~~ (15) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property, or the direction of the movements of the public in public areas.

~~(15)~~ (16) "Proprietary security organization" means any person who employs a private security guard, an alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

~~(16)~~ (17) "Qualifying agent" means, in the case of a corporation, a corporate employee employed in a management capacity or, in the case of a partnership, a general or unlimited partner meeting the qualifications set forth in this chapter for the operation of a contract security company, proprietary security organization, or private investigator, whichever is applicable.

~~(17)~~ (18) "Resident agent" means the person appointed to exercise direct supervision, control, charge, management, or operation of each branch office located in this state where the business of the licensee is conducted.

~~(18)~~ (19) "Security alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110-volt AC line, designed to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a protected premises, to which signals police, private security guards, or alarm response runners are expected to respond. Fire alarm systems and alarm systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a premises are not included within the meaning of this definition.

~~(19)~~ (20) "Street patrol service" means any contract security company or proprietary security organization that uses foot patrols, motor vehicles, or any other means of transportation to maintain public order or detect criminal activities in public areas or thoroughfares.

~~(20)~~ (21) "Unarmed private investigator" means a private investigator who does not wear, carry, possess, or have access to a firearm in the performance of his duties.

~~(21)~~(22) "Unarmed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, who does not wear or carry a firearm in the performance of those duties."
Renumber: subsequent sections

4. Page 3, line 9.
Following: line 8

Insert: "Section 3. Section 37-60-307, MCA, is amended to read:

"37-60-307. Action on application. (1) The board shall grant the application for an original or renewal license or identification card unless it finds that the applicant, branch office manager, or qualifying agent has:

- (a) not met the qualifications of 37-60-303;
- (b) practiced fraud, deceit, or misrepresentation in the application process;
- (c) knowingly made a material misstatement in the application for a license;
- (d) violated any of the provisions of this chapter or the rules of the board; or
- (e) taken any action warranting suspension or revocation under 37-60-321.

(2) If an original or renewal license or identification card is denied, the applicant may request a hearing within 30 days after receipt of notice of denial. The hearing ~~shall~~ must be held in accordance with the provisions of the Montana Administrative Procedure Act and the rules of the department of commerce.

(3) Licenses or identification cards ~~shall~~ must be granted by name for those categories of persons listed in 37-60-101(1), (2), (3), (4), (5), (8), ~~(13)~~, (14), (15), (16), (17), (18), ~~(19)~~, (20), or (21), or (22), or any combination of the foregoing."

Renumber: subsequent section

STANDING COMMITTEE REPORT

January 31, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 318 (first reading copy -- white) do pass.

Signed: _____
Robert Pavlovich, Chairman

STANDING COMMITTEE REPORT

January 31, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 434 (first reading copy -- white) do pass.

Signed: _____
Robert Pavlovich, Chairman

STANDING COMMITTEE REPORT

January 31, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 321 (first reading copy -- white) do pass.

Signed: Robert Pavlovich, Chairman

SECRETARY OF STATE

STATE OF MONTANA



Mike Cooney
Secretary of State

Montana State Capitol
Helena, Montana 59620

Testimony in support of HB 321
January 31, 1989

Mr. Chairman and members of the House Business and Economic Development committee, for the record I am Garth Jacobson, representing the Secretary of State's office. I am here today to testify in support of HB 321.

HB 321 is a bill that helps the businesses of Montana by improving the quality of service the Secretary of State's office can provide. All the bill does is require a social security number or tax identification number be included on a uniform commercial code financing statement. By having this little extra information the Secretary of State's office can more accurately and efficiently conduct lien searches.

For the purpose of background, a UCC financing statement is the document that a lender files with the Secretary of State's office to put the world on notice that a debtor has put up collateral to secure a loan. The financing statement contains among other items the name of the debtor the location and description of the collateral and the signature of the debtor. HB 321 would add either a social security or tax id number to the financing statement.

The problem arises when a lien search is conducted. There may be several filing statements with the same or similar names listed. Without a social security or tax id number listed it is difficult to distinguish between debtors. It is possible to make mistakes in the identities of the debtors.

The Food Security Act of 1985 already requires the use of these numbers for agricultural liens. HB 321 would extend the requirement to all UCC liens. Forms provided by the Secretary of States office all ready contain a line for these numbers. The UCC computer system has been set up for inclusion of these numbers. Therefore there would be no fiscal impact to the state for the conversion to this system.

Banks are accustomed to using social security or tax id numbers for their bank accounts. As mentioned they already provide this information for agricultural lien filings.

(This would be a minor change in their operations. They would be the ones to most gain from HB 321 because they benefit the most from accurate lien searches.

This legislation will improve the services the state can provide its business. It has no fiscal impact to the state. I urge your approval of HB 321 and ask that you recommend it due pass.

#1
1/31/89
HB 326

MONTANA PARALEGAL ASSOCIATION
STATEMENT OF SUPPORT FOR HOUSE BILL 326
JANUARY 31, 1989

The Montana Paralegal Association submitted House Bill 326 for consideration by the 1989 Legislature and urges its adoption. In 1987, when Chapter 60 of the Montana Code was revised, paralegals and legal assistants were omitted from the list of occupations that are excluded from the licensing provisions for private investigators. House Bill 326 would restore the language of § 37-60-105(4), MCA, so that paralegals and legal assistants, like attorneys, are allowed to do investigative work without being licensed as private investigators.

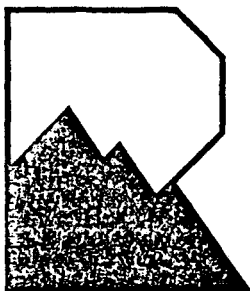
Paralegals and legal assistants work under the direct supervision of attorneys, who are excluded from such licensure, although attorneys are often required to conduct "investigations" as the term is defined in § 37-60-101, MCA, in order to properly represent clients. When paralegals and legal assistants do investigative work, they do so at the direction of their employers and in the context of legal proceedings and procedures.

Investigative work is only one aspect of the job of paralegals and legal assistants. Depending on the specialty of the attorneys for whom they work (litigation, probate, commercial, family law, and so forth), paralegals and legal assistants may be responsible for document organization and analysis, may draft correspondence and legal documents, do library, computer and document research, assist an attorney in trial or hearing preparation, manage files and maintain contact with clients, witnesses and other persons who play a role in an attorney's practice.

The minutes of the hearings before the Business and Economic Committees in 1987 reflect extensive discussion about the licensure of off-duty policemen and retail store employees acting as security guards. The minutes do not reflect any discussion about the need to license paralegals and legal assistants. The Montana Paralegal Association urges the adoption of House Bill 326 to clarify the role of paralegals and legal assistants as assistants to attorneys who are performing their duties as attorneys.

Becky Copple
Chairperson
Legislative Action Committee
Montana Paralegal Association

#2
#B 326
1/31/89



Catalog 1988-1990

Rocky Mountain College
1511 Poly Drive
Billings, Montana 59102-1796
(406) 657-1000

**ROCKY
MOUNTAIN
COLLEGE**

LEGAL ASSISTANT PROGRAM

Jeanne Bender, *Director*
Suzanne Fulton, *Coordinator*

OBJECTIVES

The program objective is to certify students as qualified Legal Assistants in accordance with American Bar Association Guidelines and in cooperation with the Yellowstone Bar Association.

Students may elect to work toward Paralegal certification only; certification and an Associate of Arts degree; or Paralegal certification as a minor option.

Specific legal core coursework prepares the student to: perform case research and investigation in the identification of relevant case laws, judicial decisions, and legal articles; analyze these materials and prepare written reports, legal arguments, and draft pleadings; interview and obtain evidence from witnesses; draft documents such as contracts, mortgages, separation agreements, and trust instruments; and prepare tax returns and plan estates.

In addition to providing students with the essential background to undertake assignments as prescribed by an attorney, the program requires 30 hours of coursework in general education, resulting in a well-educated, technically trained professional.

ADMISSION PREREQUISITES

To be admitted to the paralegal program, a student must first apply for admission to the general student body by submitting a completed application; \$15 application fee; high school and all college transcripts; ACT or SAT test scores; and two letters of recommendation to the Office of Admissions.

After an applicant is accepted into RMC, his or her file is sent to the Paralegal Program for evaluation. Students must complete the general education requirements (see Certification Requirements below) with a 2.25 grade point average and be interviewed before admission to the program is determined.

The Coordinator, working under the guidance of the Director of the Paralegal Program, will act as advisor for students admitted for certification only.

ASSOCIATE OF ARTS OR DECLARED MINOR

Students seeking certification in the program while working on an Associate of Arts degree or electing certification as their minor will be assigned an advisor from outside the Program. Admission to the Program is still required, as described above.

CERTIFICATION REQUIREMENTS

Students must earn 60 semester hours, of which 30 are in general education (see page 38), including two writing and two accounting courses, and 30 more are legal specialty courses. Students must maintain a GPA of 2.25 on a 4.0 scale to remain in good standing in the Program.

GENERAL AND CORE REQUIREMENTS

Required Courses	Credits
Introduction to Law	3
Legal Research and Writing	3
Civil Litigation	3
Investigation, Interviewing and Evidence	3
Torts	3
Business Law I	3
Elective Courses (choice of four)	
Criminal Law	3
Business Law II	3
Family Law	3
Legal Aspects of Real Estate	3
Probate	3
Field Practicum	3

The legal specialty course requirements are as follows: 48-201, 48-211, 48-301, 48-305, 48-311, 48-331, and four of the following: 48-321, 48-332, 48-351, 48-361, 48-371, 48-390.

COURSE DESCRIPTIONS

48-201 INTRODUCTION TO LAW. 3 semester hours.

This course provides an introduction to the federal and state court systems, an exposure to the operation and structure of administrative agencies, and a description of the legal profession and the role of the paralegal in it. Significant consideration is given to ethical concerns in the delivery of legal services.

48-211 LEGAL RESEARCH AND WRITING. 3 semester hours.

This course is concerned with the material and techniques of effective legal research. It includes the use of statutes, digests, court reports, periodicals, legal encyclopedias, legislative and administrative materials and other sources. Emphasis is placed upon the skills needed to put the research material into usable form. Prerequisite: 48-201.

48-301 CIVIL LITIGATION. 3 semester hours.

This course introduces the student to civil procedure as followed in state and federal courts. Pleading, discovery, motions, and other steps from pretrial through appeal are studied. The student will gain experience with preparation of documents typically used in litigation. Examples drawn from commercial and tort cases will be discussed. Prerequisite: 48-201.

48-305 INVESTIGATION, INTERVIEWING, AND EVIDENCE. 3 semester hours.

This course is designed to train the paralegal in the rules of civil and criminal evidence and in various aspects of legal interviewing and investigation. Prerequisite: 48-201.

48-311 TORTS. 3 semester hours.

In this course, the student is prepared to assist attorneys and corporations in tort law. Considered is the law of torts and its application, including a survey of substantive law of torts, procedures for case analysis, and an introduction to insurance as it relates to tort litigation.

48-321 CRIMINAL LAW. 3 semester hours.

Emphasis is on an overview of criminal law and procedure in state and federal courts, including trial and appellate procedure and habeas corpus. The approaches used by both the prosecution and the defense counsel in contesting a case are considered. Also considered will be practical and ethical considerations involved in representing the accused, including plea bargaining, sentencing, probation, and parole. Prerequisite: 48-201.

48-331, 332 BUSINESS LAW I AND II. 3 semester hours each.

Legal principles relating to business and transactions: contracts, agency, business organizations, sales, commercial paper, property, and secured transactions. 48-331 is a prerequisite for 48-332.

48-351 FAMILY LAW. 3 semester hours.

This course deals with a variety of domestic legal problems, such as pre-marital controversies, marriage—including the rights, obligations, and liabilities of marriage partners, annulments, divorce, property division, alimony, custody, child support, adoption and guardianship. Students become familiar with the legal forms used in Family Law.

48-361 LEGAL ASPECTS OF REAL ESTATE. 3 semester hours.

This course trains the student in the principles of real estate and property law. Attention is given to deeds, purchase and sales agreements, mortgages, leases, landlord-tenant relations, easement, closing, and the recording of documents. Practice is given in the use of the primary forms utilized in these areas. Prerequisite: 48-201.

48-371 PROBATE. 3 semester hours.

This course provides an introduction to the terminology of probate, a background of probate law and procedures, and a review of current probate procedures. Emphasis is placed on the study of initial pleadings, required orders and notices, inventories, sales, final accounts and distributions, estate taxes, affidavit procedures on termination of joint tenancy, judicial determination of death, summary administration, ancillary probate, creditors' claims, and instructions on drafting forms. Prerequisite: 48-201.

48-390 FIELD PRACTICUM.

#2
HB 326
1/31

WRITTEN TESTIMONY OF
THE NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS, INC.

TO THE HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE
THE HONORABLE BOB PAVLOVICH, CHAIRMAN

JANUARY 31, 1989
HELENA, MONTANA

* * * * *

Chairman Pavlovich, Members of the Committee:

Thank you for allowing the National Federation of Paralegal Associations, Inc. (NFPA) to present this written testimony on House Bill 326.

Founded in 1974, the NFPA is the oldest and largest non-profit professional association representing over 14,000 paralegals nationwide. The NFPA supports increased quality, efficiency and accessability in the delivery of legal services. In addition, it promotes the growth, development and recognition of the profession as an integral partner in the delivery of legal services.

In March 1987, at the NFPA's annual meeting the following definition of a paralegal/legal assistant was adopted:

A Paralegal/Legal Assistant is a person, qualified through education, training or work experience, to perform substantive legal work, that requires knowledge of legal concepts, and is customarily, but not exclusively, performed by a lawyer. This person may be retained or employed by a lawyer, law office, governmental agency or other entity or may be authorized by administrative, statutory or court authority to perform this work.

This definition, although quite broad in nature, reflects the diversity of the NFPA's membership.

Legal assistants perform tasks delegated to them by attorneys. Attached is the NFPA's Index to Legal Assistant Duties which is used by many paralegal educators and members of the American Association for Paralegal Education in their classrooms. As you can see, in nearly every practice area, paralegals perform services for attorneys that could be construed as some type of investigative activity. The American Bar Association Code of Professional Responsibility and Canons of Judicial Ethics states:

. . . Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product.

The scope of the tasks that a paralegal may perform are outlined in Opinion 316 of the American Bar Association's Committee on Professional Ethics. The opinion reads as follows:

We do not limit the kind of assistance that a lawyer can acquire in any way to persons who are not admitted to the Bar, so long as the non-lawyers do not do things that lawyers may not do or do the things that lawyers only may do.

The economic advantages derived from employing legal assistants are becoming widely known within the legal and business communities. At a time when clients are concerned about the delivery of cost-effective legal services, attorneys are using paralegals to perform tasks--including investigations requisite with the prosecution or defense of a client's case--once accomplished by associates. Through the use of legal assistants, law offices, corporations, government agencies, public law offices, etc. are able to provide their clients with a higher caliber work product at a lower cost. In fact, because of the increased demand for affordable legal services, the U.S. Department of Labor in 1987 found the

paralegal profession was one of the fastest growing professions in this country. By the year 2000 the Department estimates 117,000 individuals will be employed as legal assistants, an increase of 104% between the years 1986 and 2000.

It is with this background the NFPA urges you to include paralegals/legal assistants in the exemptions found at M.C.A. 37-60-105. The stated purpose of the statutes regulating private investigators and patrolmen found at M.C.A. 37-60-103 is: ". . . to safeguard the public health, safety and welfare against illegal, improper or incompetent actions. . .". The NFPA respectfully submits that the attorney, through whom the legal assistant provides services, is fully liable to the client and to the public for all investigatory work performed by that individual. To exclude legal assistants from the exemptions found at M.C.A. 37-60-105, thereby forcing them to have a license to perform investigatory tasks unnecessarily increase the cost of legal services to the consumer; is cumbersome; hinders the efficient, cost effective delivery of legal services; places an undue hardship on the attorney; and does not have any benefit to the public.

To leave the statute in its current form--with paralegals/legal assistants excluded from the exemptions--in essence establishes a protected class of individuals--private investigators--and creates a monopoly for that profession.

Consequently, for the foregoing reasons, the NFPA urges the favorable passage of HB 326.

Respectfully submitted,


JOLENE MILLER

First Vice President - Policy

INDEX TO
LEGAL ASSISTANT DUTIES

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LEGAL ASSISTANT DUTIES

The tasks listed below are a compilation of discrete activities that can be and are performed by legal assistants in various specialty areas of law. This list is not meant to be all-inclusive, but is an example of the types of assignments that can be delegated to legal assistants.

GENERAL

Conduct interviews with clients to gather background information.

Correspond with clients, counsel, others on factual matters.

Inform client periodically of case/matter status.

Draft pleadings and documents.

Organize and maintain form and client files.

Index or summarize documents or transcripts.

Assemble and analyze records from courts or agencies relevant to your case or client.

Prepare clients for court hearings.

Assist in administering law library.

Review legal periodicals and material relevant to your area of law.

Maintain current binders of court rules.

Maintain calendar or tickler system.

Administer paralegal program.

Legal research, including procedural, administrative or case law research.

Legislative reporting -- keep track of pending legislation that may affect clients.

BANKRUPTCY

Interview client to obtain information for filing petition and schedules.

Give client written lists of documents, etc. needed, i.e., tax returns, certificate of title, life insurance, liabilities, etc.

Obtain list of assets.

Arrange appropriate UCC and real property searches, appraisals, etc.

Review forms to obtain all necessary data.

Familiarize client with general procedures at bankruptcy court hearings, meetings and motions.

Draft and file petitions and schedules.

Draft and file proofs of claim.

Meet with clients for execution of documents.

Handle incoming and outgoing routine calls and correspondence to creditors, creditors' committee chairperson and attorney, trustee and client.

Attend court hearings with attorney and client in effort to facilitate flow of documents and information.

Keep track of timetable, i.e., when to file motions and serve motions.

Draft motions for avoidance of liens and reaffirmation agreements and arrange for execution of same.

Draft, serve and file debtor's monthly financial statements in Chapter 11 cases.

Draft, serve and file complaints in adversary proceedings.

Draft and file attorneys' fee applications.

Attend Section 341(a) meeting.

Attend Chapter 13 Plan confirmation hearing.

Maintain log to check off discharge and status of bankruptcy.

BUSINESS

Check availability and reserve corporate name.

Draft and file articles of incorporation.

Complete and file qualification of foreign corporations.

Obtain good standing certificates from Secretary of State.

Draft bylaws.

Draft notices and minutes, or consents of organization meeting.

Draft Subscription Agreements.

Issue and transfer stock, prepare stock and shareholder registers, prepare and maintain analyses and charts of outstanding securities.

Draft banking resolutions.

Prepare necessary documents for opening of corporate bank account.

Draft Shareholder Agreements.

Draft Buy-Sell Agreements.

Draft Employment Agreements.

Complete and file any assumed name certificates.

Complete and file election by small business corporation and subsequent shareholders' consents to such election.

Complete and file application for employer identification number.

Complete and file application for workers' compensation.

Notify State Tax Commission of stock book location.

Prepare and file DISC elections.

Complete and file application for unemployment insurance.

Complete and file application for employer withholding tax registration.

Complete and file application for appropriate licenses to operate specific businesses.

Complete and file trade name applications, copyright applications and financing statements.

Order minute book, stock book and seal.

Draft and file application for proper licensing when forming professional or special purpose corporation.

Draft response to auditors' request for information.

Prepare and file annual reports.

Maintain a tickler system for annual meetings.

Draft notices, proxy materials, ballots, affidavits of mailing and agendas for annual meeting and special meetings.

Draft resolutions to be considered by directors.

Draft oaths and reports of judges of election for annual meeting.

Draft shareholders and directors minutes.

Draft written consents in lieu of meetings.

Draft documents and correspondence necessary to effect dissolution and liquidation, merger and sale of substantially all of the assets of corporations.

Draft stock option plan, maintain stock option registers and related charts.

Collect information, draft documents and correspondence necessary to adopt qualified profit-sharing and pension plans and related trust agreements and other documents. Submit such materials to I.R.S. for determination letters.

Draft and organize closing papers on corporate acquisitions.

Draft lease agreements.

Qualify corporation under state law.

Draft Articles of Merger, Plan of Merger.

Draft closing checklists and closing memoranda.

Prepare closing files and assist in closing.

Draft articles of dissolution.

Due diligence investigation.

Compile and index documents in corporate transactions.

Draft partnership agreements and amendments.

Draft statements of partnership and certificates of limited partnership.

Draft certificates of amendment to certificates of limited partnership.

Prepare and publish Notice of Substance of Certificates of General and Limited Partnership.

Draft minutes of partnership meetings.

Draft non-competition agreements for selling partners.

Draft Agreement for Dissolution of Partnership.

Draft and publish Notice of Termination of Partnership (or Continuation of Successor Business).

Draft certificates or cancellation of certificates of limited partnership.

Draft and file trade name documents, amended trade name documents.

Draft analysis in connection with tax planning, draft state and federal tax returns and prepare for audit.

Prepare documents for qualification to do business in foreign jurisdictions.

Prepare necessary documents to amend and restate Articles of Incorporation and amend bylaws.

File and terminate UCC Financing Statements with state and county offices.

Search state and county offices for federal tax liens, UCC filings, deeds mortgages and judgments.

Prepare and file DBAs, certificates of trade names and certificates of assumed names with the appropriate state office.

Prepare and file governmental applications and reports.

Collect information from and verify filings with the Secretary of State and other state and local agencies.

Change registered office or agent.

COLLECTIONS

Initial review of documents provided by client.

Conduct asset investigation.

Draft demand letter to debtor.

Draft summons and complaint.

Draft motions for or in opposition to summary judgment, including memoranda and affidavits in support.

Draft judgment, cost bill, and other supporting pleadings.

Maintain judgment account worksheet to record payments, collection costs and court costs.

Draft notice of demand to pay.

Draft, file and serve documents for judgment debtor examination.

Appear in court at hearing for initial claim of plaintiff.

Draft, have issued and serve writ of garnishment.

File request for dismissal form.

Draft, have issued and serve order to release garnishment.

Draft, have issued and serve order of examination.

Appear in court and conduct examination.

Draft, have issued and serve writ of execution.

Arrange for indemnity bond for sheriff.

Arrange for posting of notice of sale or publication of notice of sale.

Maintain communication with sheriff re levy on personal property.

Prepare bid and attend sheriff's sale on real property.

Obtain certified copy of judgment transcript.

Transfer judgment transcript to a different court.

Obtain exemplified copy of foreign judgment.

Prepare affidavit for transfer of a foreign judgment.

Register judgment in a different state.

Prepare and file satisfaction of judgment.

CRIMINAL

Investigate facts re decision to prosecute or prepare defense.

Interview client with attorney.

Make bail arrangements.

Gather information for plea bargaining and prepare charges or plea for arraignment.

Prepare for preliminary hearing or grand-jury presentation.

Obtain discovery (police reports, search warrant, affidavit).

Draft motion compelling discovery.

Draft testimony of defendant.

Analyze case based on discovery.

Research law for filing of pretrial motions.

Draft Motion for Change of Venue.

Draft Demurrer.

Draft Motions to Set Aside Indictment, to Suppress, to Controvert, for Civil Compromise, for Diversion, In Limine, for Return of Property, to Postpone Trial, to Disqualify Judge, to Withdraw as Attorney of Record.

Subpoena and interview witnesses.

Examine physical evidence; tangible objects. /

Examine and photograph scene of alleged crime.

Draft and respond to interrogatories.

Draft deposition questions; summarize depositions.

Coordinate and arrange for outside investigators and experts.

Prepare trial notebook.

Arrange for diversion.

Arrange civil compromise.

Arrange work release.

Draft Supplemental Memoranda of Law.

Draft Trial Memorandum.

Attend conference with prosecutor.

Attend pretrial conferences with judge and attorneys.

Draft jury instructions.

Attend and assist at trial.

Draft Motions in Arrest of Judgment, for New Trial, for Release Pending New Trial/Appeal.

Attend conference with client regarding pre-sentence report.

Prepare sentencing information and work with probation officers.

Draft Petition for Leniency/Probation.

Draft Notice of Appeal.

Research law regarding appealable issues.

Draft assignments of error and arguments.

EMPLOYEE BENEFITS

Draft qualified plan documents, trust agreements, custodial agreements, money purchase, 401(k), stock bonus, defined benefit plans and IRA plans.

Draft amendments and restatements to plans to bring into compliance with new law and regulations.

Draft Summary Plan Descriptions.

Draft deferred compensation plans including nonqualified executive compensation, stock option and medical reimbursement plans.

Draft Affiliate Adoption Statement.

Draft Notification of Participation, Election to Participate, Beneficiary Designation, election out of qualified joint and survivor annuity, Application for Benefits and Election to Contribute.

Draft Summary Annual Report.

Draft Benefit Statement.

Draft promissory note and salary assignment for participant loans.

Draft Board of Directors resolutions for plan adoption, adoption of amendments, and fixing contributions.

Prepare and file application for IRS Determination Letter.

Prepare and file annual report (5500 series and related schedules).

Prepare PMGC premium forms.

Monitor progress of implementation of new plans and amendments to verify required actions occur on schedule.

Coordinate general notice mailings to clients about potential impact of new legal developments on plans.

Develop and maintain checklists, sets of model plans, administrative documents and letters and update as new material is developed.

Research interpretive questions on prohibited transactions and qualified and nonqualified plans.

Calculate employer contributions and forfeitures and allocate to participant accounts.

Determine valuation adjustments and allocate to participant accounts.

Calculate participant's Years of Service for eligibility and vesting.

Calculate benefit for terminated participant.

Test plan for discrimination, top-heaviness, or Section 415 limits.

FAMILY LAW

Attend initial interview with attorney and client; identify non-legal problems that can be referred to other entities.

Collect background information on client, including marriage certificates, sources of support, residence, assets, number of children, etc.

Determine if grounds for divorce or dissolution exist.

Participate in discussion of other remedies, including counseling, separation, reconciliation, mediation, etc.

Draft petition for dissolution or response.

Complete domestic relations questionnaire form.

Draft temporary motions, affidavits and orders.

Draft notice to produce.

Draft property settlement agreement.

Determine support needs.

Draft decree of dissolution, accompanying motions and affidavits.

Draft motion and affidavit for modification.

Serve notice on opposing counsel.

Arrange for service of documents.

Obtain settings for court hearings.

Maintain contact with client and handle calls when legal advice is not needed.

Assist client in preparation of monthly income and expense sheet.

Arrange for appraisers for real property and personal property.

Draft subpoenas and arrange for service.

Schedule expert witness interviews and availability at trial.

Obtain information for discovery, organize, categorize and determine completeness of discovery.

Draft proposed stipulations.

Draft petition for adoption and consent for adoption, decree of adoption.

Draft petition for name change.

FORECLOSURE

Order foreclosure report.

Review foreclosure report with respect to priority of lienholders and determine parties to be served.

Draft foreclosure complaint.

Draft trustee's notice of sale and arrange for publication.

Prepare and serve trustee's notice of sale on grantors and subsequent lien creditor.

Draft motion and supporting documents for summary judgment.

Draft motion and order for default.

Draft decree of foreclosure.

Record all proofs of service, affidavits of mailing and publication prior to sale.

Check for federal tax liens 30 days prior to sale. /

Draft and serve notice of nonjudicial sale on IRS if appropriate.

Draft bid sheet for sale.

Draft deed in lieu of foreclosure.

Draft post-sale documents, including motion for writ of assistance.

Appear at time and place set for sale to postpone sale.

Draft and record trustee's deed after sale.

Draft and record notice of maritime lien.

Draft complaint, satisfaction and decree for foreclosure of maritime lien.

Draft correspondence to occupants giving 10 days to vacate.

Take possession, satisfy and transmit promissory note and original trust deed to trustee.

INTELLECTUAL PROPERTY

Prepare patent and/or trademark status summary reports.

Docket and/or maintain docket system for due dates for responses, renewals, oppositions, Sections 8 and 15 filings, use affidavits and working requirements.

Docket and/or maintain docket system for payment of patent annuities in foreign countries.

Conduct patent/trademark searches.

Conduct on-line computer information searches of technical literature for patent/trademarks.

Draft trademark registration application, renewal application.

Draft registered user agreements.

Draft power of attorney.

Draft copyright applications.

Research procedural matters, case law and unfair competition matters.

Prior art search, patent/trademark searches.

Assist in opposition, interference, infringement and related proceedings.

Arrange for visual aids/models/mock-ups for trial use.

Maintain files of new products and invention development.

Review patent filings with engineers.

Draft licenses/agreements regarding proprietary information/technology.

LITIGATION

Draft complaint, bill of particulars.

Draft answer and/or other defensive pleadings.

Draft interrogatories, requests for admission, requests for production of documents, requests for examination.

Review client files, gather and organize factual data.

Respond to interrogatories, requests for admission and requests for production of documents.

Review, index, gather, summarize documents produced by opposing and third parties.

Examine premises, locations, objects: take notes and/or photos.

Draft discovery motions.

Locate, interview and obtain witness statements.

Arrange for expert witnesses, interview, prepare written reports.

Arrange for outside investigator.

Obtain/examine public records.

Prepare and serve subpoena duces tecum.

Prepare summons and service of process.

Draft deposition questions and prepare deposition outline.

Prepare witnesses for deposition.

Arrange for court reporter, determine need for computerized transcript.

Attend depositions, take notes, organize exhibits.

Index and summarize depositions, index deposition exhibits.

Follow up after depositions for additional information.

Obtain, review and analyze medical records.

Compile records of patent of product, history, information regarding similar products;

Analyze/summarize factual information.

Prepare statistical/factual memoranda.

Prepare market surveys and gather industry statistics;

Draft affidavits.

Arrange for extensions of time by telephone, letter and/or motions.

Draft demand letters and subpoenas.

Trace documents and other physical evidence.

Develop information retrieval systems, including computerized systems.

Supervise computerized or other system.

Draft legal memoranda and/or briefs.

Review briefs for accuracy of factual information.

Check cites and/or shepardize; proofread.

Prepare and organize trial exhibits.

Prepare trial notebooks and witness files.

Draft list of documents and testimony to use in impeaching opposition witnesses.

Draft pretrial statements and settlement conference memoranda.

Obtain jury list, biographical information on jurors.

Draft jury instructions and voir dire.

Coordinate witness attendance at trial.

Prepare charts/graphs for use at trial.

Attend trial, noting developments of the case as well as reactions of jurors, witnesses and opposing counsel during trial.

Maintain list of exhibits as mentioned, offered, admitted or objected to.

Draft cost bill.

Prepare settlement calculations.

Prepare comparative analysis of terms of potential settlement agreements.

Draft settlement documents, including releases and dismissals.

Draft notice of appeal.

Prepare record on appeal.

Organize appendix for appeal brief. —

Draft factual information for appeal brief. -

Order hearing transcripts and prepare recap or outline of transcripts.

Set up time table for filings.

Prepare releases, settlement documents, entries of dismissal or satisfaction.

PROBATE AND ESTATE PLANNING

Meet with client and attorney at initial meeting.

Prepare and maintain a calendar system.

Notify heirs and devisees of probate proceeding.

Publish notice to interested persons.

Collect information and/or assets for preparation of inventory and tax returns.

Accompany fiduciary and court representative to bank for removal of will from safety deposit box.

Value assets (date of death and alternate valuation date).
Draft inventory.
Maintain financial records of estate.
Prepare and file probate documents in administration of estate or to relieve estate from administration.
Surrender insurance policies.
File life insurance claims and other death benefit claims.
Verify bank balances.
Interpret will provisions.
Prepare preliminary tax and cash estimate.
Obtain tax releases.
Prepare income projection.
Draft state inheritance tax and federal estate tax returns.
Draft decedent's final federal and state individual income tax returns.
Draft state and federal fiduciary income tax returns.
Draft petitions and orders for partial distribution.
Draft accountings.
Assist in audit of tax returns.
Draft distribution schedule.
Draft closing documents.
Draft federal and state gift tax returns.
Review documents and tax returns in connection with an ancillary proceeding.
Draft tax returns for nonprobate estate.
Collect data for estate planning.
Draft wills and trusts.

Draft court documents for conservatorship.
Draft inventory for conservatorship.
Draft accountings for conservatorship.
Draft federal and state tax returns for conservatorship.
Draft court documents for guardianships.
• Make post-mortem planning calculations.

PUBLIC BENEFITS

Represent claimants at SSI (Supplementary Security Income) hearings.
Represent claimants at SSD (Social Security Disability) hearings.
Research appropriate Social Security law.
Assist with Medicare waivers and Medicare appeals.
Assist with Social Security overpayment waivers.

Locate medical information.

Review Social Security file and obtain documentation.

Negotiate with landlord and tenant to resolve problems.
Assist with consumer fraud complaints and forward to Consumer Protection Division.
Obtain documentation for unemployment claim.

REAL PROPERTY

Draft subdivision, condominium and timeshare registrations for in-state and out-of-state registrations.
Draft registrations of recreational subdivisions for federal registrations.
Organize recording procedures for large-scale recording and prepare draft of opinion letters.
Perform financial calculations (amortization, net present value, discounting, APR).
Conduct a title search in the records office or order title search and updates.

Prepare a preliminary abstract of title and opinion on the title.

Arrange for the purchase of title insurance.

Assist a client in obtaining mortgage financing.

Review mortgage applications for clients that sell mortgages.

Assist in recording mortgages.

Assemble tax receipts.

Adjust property taxes for closing.

Record capital gain or loss in client's income tax return.

Prepare appropriate capital gains tax affidavit.

Draft Truth-in-Lending Disclosure Statements.

Draft and review permits and easements.

Draft, review and plot legal descriptions.

Draft trust, warranty and other deeds.

Draft leases, assignments, extensions, amendments.

Draft contracts, assignments, modifications.

Blackline changes in documents as each is revised.

Draft and arrange for filing of UCC filing, amendments, extensions, terminations.

Draft escrow instructions.

Analyze and digest leases, assignments, extensions, amendments and deeds.

Review and determine validity of mineral claims through search of BLM records.

Check and review zoning and comprehensive plan designations; obtain letters on designation as closing requirements.

Review surveys and condominium plats.

Draft closing statements and arrange closing date.
Notify all parties involved of closing date.
Order amortization table.
Prepare equalization form.
Arrange for discharge of mortgage.
Obtain closing figures from bank, and prorate all closing figures.
Appear or assist attorney at closing.
Notarize documents at closing.
Follow up on post-closing items.
Assist client in obtaining liability insurance (e.g., homeowners' policy).
Coordinate office handling of insurance claims of client.
Prorate real and personal property taxes.

SECURITIES/MUNICIPAL BONDS

Draft registration statement and prospectus.
Organize filing the registration statement.
Draft 1934 Act Reports.
Draft questionnaire for officers, directors and principal shareholders.
Draft promissory notes.
Draft underwriting agreements.
Draft Trust Indentures.
Draft Bond Purchase Agreements.
Draft Blue Sky memoranda and Blue Sky Registration.
Review status of Blue Sky application.

Draft Legal Investment Survey.

Notify State Securities Administrators of SEC effectiveness.

Draft and file dealer and/or salesmen registration documents.

Perfect securities or dealer exemptions.

Prepare memoranda on the availability of exemptions.

Draft and file documents for registering broker/dealers and/or salesmen with NASD, SEC and state securities commissions.

Draft and file documents for renewing or withdrawing the registration of broker/dealers with salesmen.

Qualify dealer corporations where applicable.

Draft Forms 3, 4, 8-K, 10-K, 10-Q.

Draft Form 144 and related documentation.

Draft Lease Agreement, Loan Agreement, Agreement of Sale, Facilities Financing Agreement Ordinance or Contracts.

Draft Indenture.

Draft Security Agreements (Deed, Guaranty, Mortgages).

Review Bond Purchase Agreement or Underwriting Agreement.

Draft summaries of documents for use in preparing Preliminary Official Statement and Official Statement.

Coordinate with underwriter the accuracy of the statements.

Finalize basic documents and distribute for execution.

Draft necessary resolutions authorizing the issuance of the Bonds.

Send bond form to printer.

Proof first galley of the bonds and check manufacturing schedule, coupon amounts and CVSIP numbers.

Check bonds at time of closing and read bond numbered 1.

Draft closing papers for issuer including authorizing resolutions, Authentication Order to Trustee, Incumbency Certificate, Nonarbitrage Certificates and CVSIP numbers.

Draft company authorizing resolutions and Officers' Certificates.

Prepare tax election (if applicable) and arrange for appropriate filing.

Draft recording certificate.

Draft financing statements.

Obtain certificates from state agencies with respect to good standing of company and certified corporate documents.

Attend closing, checking all certificates and opinions, insurance policies, legal descriptions.

Compile the closing transcript, prepare index and organize closing binders.

TAX

Maintain records and draft returns for following taxes: corporate income, franchise, individual income, partnership income, estate, estate income, gift.

Draft supporting documents for refunds.

Gather information for audits and reviews.

WORKERS' COMPENSATION

Obtain copy of accident report.

Prepare LS-203 form, LS-18 form and transmit to Dept. of Labor.

Draft Request for Hearing or Response.

Draft Application to Schedule Date or Reply.

Draft Motion to Postpone or Response.

Draft Demand for Documents.

Draft Trial Brief.

Organize medical reports.

Schedule doctor appointments.

Schedule meetings and interview doctors. /

Request employer medical mileage reimbursement.

Prepare narrative case evaluation.

Supervise compliance with Demand for Documents.

Evaluate disability utilizing WCB (BWC) rules and guidelines.

Research claim options.

Prepare exhibit list.

Check average weekly wage calculations.

Negotiate settlement.

Assist attorney at WCB (BWC) hearings.

Draft Petition for Review (WCB or BWC).

Draft appellate brief.

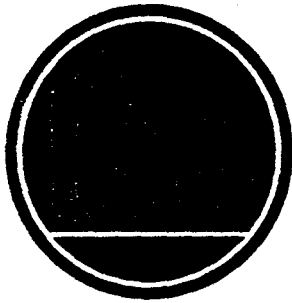
Draft Petition for Judicial Review.

Draft Statement of Case.

Draft Issue and Fact section of appellate brief.

Draft Motion for Reconsideration.

Draft affidavit regarding attorney's fees.



National Association of Legal Assistants, Inc.

1601 SOUTH MAIN STREET • SUITE 300 • TULSA, OK 74119

(918) 587-6828

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1/31

Reply To:

NALA President

January 27, 1989

Bob Pavlovich
Chairman, House Business and
Economic Development Committee
Capitol Station
Helena, Montana 59620

Dear Mr. Pavlovich:

The Montana Paralegal Association has recently advised us of House Bill 326, its provisions and intent in excluding legal assistants from laws regulating private investigators and patrolmen and amending Section 37-60-105, MCA.

On behalf of the National Association of Legal Assistants, Inc., and the association's members and Certified Legal Assistants in Montana, we are writing to express our support of House Bill 326. Legal assistants, by definition, work under the supervision and direction of licensed attorneys. Their work product becomes the work product of the supervising attorney. This supervisory responsibility is clearly recognized by House Bill 326.

As part of their routine responsibilities, legal assistants are often delegated tasks that may be considered within the purview of investigative responsibilities. These duties would normally be performed by an attorney, absent the use of legal assistants. We note the prior act exempted attorneys performing these duties. As proposed, the legislation also exempts legal assistants working under these licensed attorneys, thus encouraging the efficient delivery of legal services.

For your further information and review, we have enclosed a copy of this association's Code of Ethics and Professional Responsibility as well as a copy of the NALA Model Standards and Guidelines for Utilization of Legal Assistants, which includes the association's definition of a legal assistant.

Please do not hesitate to contact us should you have any questions or if we may be of any assistance to you.

Sincerely,

Karen B. Judd, CLA

Karen B. Judd, CLA, NALA President

Code Of Ethics and Professional Responsibility of National Association of Legal Assistants, Inc.

Preamble

It is the responsibility of every legal assistant to adhere strictly to the accepted standards of legal ethics and to live by general principles of proper conduct. The performance of the duties of the legal assistant shall be governed by specific canons as defined herein in order that justice will be served and the goals of the profession attained.

The canons of ethics set forth hereafter are adopted by the National Association of Legal Assistants, Inc., as a general guide, and the enumeration of these rules does not mean there are not others of equal importance although not specifically mentioned.

Canon 1 — A legal assistant shall not perform any of the duties that lawyers only may perform nor do things that lawyers themselves may not do.

Canon 2 — A legal assistant may perform any task delegated and supervised by a lawyer so long as the lawyer is responsible to the client, maintains a direct relationship with the client, and assumes full professional responsibility for the work product.

Canon 3 — A legal assistant shall not engage in the practice of law by accepting cases, setting fees, giving legal advice or appearing in court (unless otherwise authorized by court or agency rules).

Canon 4 — A legal assistant shall not act in matters involving professional legal judgment as the services of a lawyer are essential in the public interest whenever the exercise of such judgment is required.

Canon 5 — A legal assistant must act prudently in determining the extent to which a client may be assisted without the presence of a lawyer.

Canon 6 — A legal assistant shall not engage in the unauthorized practice of law and shall assist in preventing the unauthorized practice of law.

Canon 7 — A legal assistant must protect the confidences of a client, and it shall be unethical for a legal assistant to violate any statute now in effect or hereafter to be enacted controlling privileged communications.

Canon 8 — It is the obligation of the legal assistant to avoid conduct which would cause the lawyer to be unethical or even appear to be unethical, and loyalty to the employer is incumbent upon the legal assistant.

Canon 9 — A legal assistant shall work continually to maintain integrity and a high degree of competency throughout the legal profession.

Canon 10 — A legal assistant shall strive for perfection through education in order to better assist the legal profession in fulfilling its duty of making legal services available to clients and the public.

Canon 11 — A legal assistant shall do all other things incidental, necessary, or expedient for the attainment of the ethics and responsibilities imposed by statute or rule of court.

Canon 12 — A legal assistant is governed by the American Bar Association Model Code of Professional Responsibility and the American Bar Association Model Rules of Professional Conduct.

*Adopted May, 1975
Revised November, 1979
Revised September, 1988*



**National Association of
Legal Assistants, Inc.**

**Model Standards and
Guidelines for Utilization
of Legal Assistants
Annotated**



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National Association of Legal Assistants, Inc.



THE Certified Legal Assistant PROGRAM

CLA is a service mark duly registered with the U.S. Patent and Trademark Office (No. 1131999).
Any unauthorized use is strictly forbidden.

Occupational Outlook Handbook

1988-89
Edition

#3
H13326
1/3/89



U.S. Department of Labor
Ann McLaughlin, Secretary

Bureau of Labor Statistics
Janet L. Norwood, Commissioner

April 1988

Bulletin 2300

ufacturing, mainly in the electrical and electronic machinery and equipment, transportation equipment, and machinery industries. Over one-fifth worked in service industries, mostly in engineering or business services companies who do engineering work on contract for government, manufacturing, or other organizations.

In 1986, the Federal Government employed about 64,000 engineering technicians. Almost two-fifths worked for the Department of Defense; others worked for the Departments of Transportation, Agriculture, and Interior, the Tennessee Valley Authority, and the National Aeronautics and Space Agency. State governments employed about 35,000 and local governments about 22,000.

Training, Other Qualifications, and Advancement

Although persons can qualify for engineering technician jobs through many combinations of work experience and education, most employers prefer applicants with technical training. This training is available at technical institutes, junior and community colleges, extension divisions of colleges and universities, and public and private vocational-technical schools. Persons with college courses in science, engineering, and mathematics may also qualify for some positions but may need additional specialized training and experience.

Training can also be obtained on the job or through apprenticeship programs or correspondence schools. Some types of Armed Forces training and experience also may qualify one for some engineering technician jobs.

Many types of publicly and privately operated schools provide technical training. The kind and quality of programs can vary considerably. Therefore, prospective students should be careful in selecting a program. They should contact prospective employers regarding their preferences and ask schools to provide information about the kinds of jobs obtained by graduates, instructional facilities and equipment, and faculty qualifications.

Technical institutes offer intensive technical training but less theory and general education than junior and community colleges. Many offer 2-year associate degree programs, and are similar to or are part of a community college or are part of State university systems. Other technical institutes are run by private, often for-profit, organizations, sometimes called proprietary schools; their programs vary considerably in length and types of courses offered. Some are 2-year associate degree programs.

Junior and community colleges offer curriculums similar to those in technical institutes but may include more theory and liberal arts. Often there may be little or no difference between technical institute and community college programs. However, courses taken at junior or community colleges are more likely to be accepted for credit at 4-year colleges than those at technical institutes. After completing the 2-year program, some graduates qualify for

jobs as engineering technicians while others continue their education at 4-year colleges.

Four-year colleges usually do not offer engineering technician training, but college courses in science, engineering, and mathematics are useful for obtaining a job as an engineering technician.

Area vocational-technical schools are post-secondary public institutions that serve local students and emphasize training needed by local employers. Most require a high school diploma or its equivalent for admission.

Other training may be obtained in the Armed Forces in technical areas which can be applied in civilian engineering technician jobs. Some additional training may be needed, depending on the military skills acquired and the kind of job, but often this is gained on the job. Some correspondence schools also offer training for engineering technicians.

Prospective engineering technicians should take as many high school science and math courses as possible. Engineering technicians need an aptitude for mathematics and science. For design work, creativity also is desirable. They should be able to work well with others since they are often part of a team of engineers and other technicians. Those in sales and service should be able to work independently and deal effectively with customers.

Engineering technicians usually begin doing routine work under the close supervision of an experienced technician, engineer, or scientist. As they gain experience, they are given more difficult assignments with only general supervision. Some engineering technicians eventually become supervisors, and a few, engineers.

Job Outlook

Employment of engineering technicians is expected to increase much faster than the average for all occupations through the year 2000 due to anticipated increases in research and development expenditures and expected continued rapid growth in the output of technical products. Competitive pressures and advancing technology will force companies to improve and update manufacturing facilities and product designs more rapidly than in the past.

Despite the projected much faster than average growth, most job openings will be to replace technicians who transfer to other occupations or leave the labor force.

Many technician jobs are defense related; cutbacks in defense spending could result in layoffs.

Earnings

Median annual earnings of full-time engineering technicians were about \$24,400 in 1986; the middle 50 percent earned between \$18,000 and \$30,400. Ten percent earned less than \$14,000, and 10 percent earned over \$36,600.

In the Federal Government, engineering technicians could start at \$11,802, \$13,248, or \$14,822 in 1987, depending on their education and experience.

Related Occupations

Engineering technicians apply scientific and engineering principles usually acquired in post-

secondary programs below the baccalaureate level. Occupations of a similar nature include science technicians, drafters, surveyors, broadcast technicians, and health technologists and technicians.

Sources of Additional Information

For information on a career as an engineering technician, contact:

The National Engineering Council for Guidance, 1420 King St., Suite 405, Alexandria, VA 22314.

For information on engineering technicians specializing in electronics, contact:

International Society of Certified Electronics Technicians, 2708 W. Berry, Suite 3, Fort Worth, TX 76109.

Electronics Technicians Association, International, 604 North Jackson St., Greencastle, IN 46135.

Legal Assistants

(D.O.T. 119.267-022 and -026)

Nature of the Work

Not all legal work requires a law degree. In recent years, lawyers have increasingly used legal assistants—also called “paralegals” or “legal technicians”—to provide legal services to more persons at less cost.

Legal assistants work directly under the supervision of a lawyer. While the lawyer assumes responsibility for the legal assistant's work, a legal assistant is often allowed to perform all the functions of a lawyer other than accepting clients, setting legal fees, giving legal advice, or presenting a case in court.

Legal assistants generally do background work for the lawyer. To help a lawyer prepare litigation for trial, a legal assistant investigates the facts of the case to make sure that all relevant information is uncovered. The legal assistant may conduct research to identify the appropriate laws, judicial decisions, legal articles, and other material that will be used to determine whether or not the client has a good case. After analyzing all the information, the legal assistant may prepare a written report that is used by the attorney to decide how the case should be handled. If the attorney decides to file a lawsuit on behalf of the client, the legal assistant may prepare legal arguments, draft pleadings to be filed with the court, obtain affidavits, and assist the attorney during the trial. The legal assistant also may keep files of all documents and correspondence important to the case.

Besides litigation, legal assistants may also work in areas of the law such as bankruptcy, criminal law, employee benefits, patent and copyright law, and real estate. They help draft documents such as contracts, mortgages, separation agreements, and trust instruments. They may help prepare tax returns and plan estates. Some legal assistants coordinate the activities of law office employees and keep the financial records for the office.

Legal assistants who work for corporations

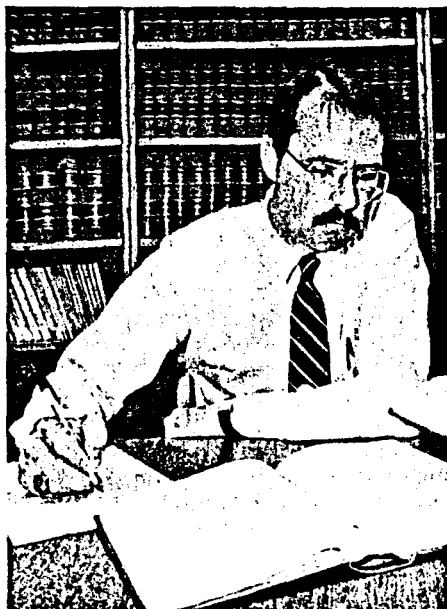
help attorneys handle corporate matters such as employee contracts, shareholder agreements, stock option plans, and employee benefit plans. They may help prepare and file annual financial reports, maintain corporate minute books and resolutions, and secure loans for the corporation. Legal assistants may also review government regulations to make sure that the corporation operates within the law.

The duties of legal assistants who work in government vary depending on the type of agency that employs them. Generally, legal assistants in government analyze legal material for internal use, maintain reference files, conduct research for attorneys, collect and analyze evidence for agency hearings, and prepare informative or explanatory material on the law, agency regulations, and agency policy for general use by the agency and the public.

Legal assistants employed in community legal service projects help the poor, the aged, and other persons in need of legal aid. They file forms, conduct research, and prepare documents. When authorized by law, they may represent clients at administrative hearings.

Some legal assistants, usually those in small and medium-sized law firms, have varied duties. One day the legal assistant may do research on judicial decisions on improper police arrests and the next day may help prepare a mortgage contract. This requires a general knowledge of many areas of the law.

Some legal assistants work for large, departmentalized law firms, government agencies, and corporations and specialize in one area of the law. Some specialties are real estate, estate planning, family law, labor law, litigation, and corporate law. Even within specialties, functions often are broken down further so that a legal assistant deals with one narrow area of the specialty. For example, legal assistants who specialize in labor law may deal exclusively with employee benefits.



To help lawyers prepare a case, legal assistants do research on relevant laws and judicial decisions.

A growing number of legal assistants are using computers in their work. Computer software packages are increasingly used to search legal literature stored in the computer and identify legal texts relevant to a specific subject. In litigation that involves many supporting documents, legal assistants may use computers to organize and index the material. Legal assistants may also use computer software packages to perform tax computations and explore the consequences of possible tax strategies for clients.

Working Conditions

Legal assistants do most of their work at desks in offices and law libraries. Occasionally, they travel to gather information and perform other duties. They may work alone or with others.

Most legal assistants work a standard 40-hour week. Sometimes, they work very long hours and are under pressure to meet deadlines. At some law firms they do not get paid for overtime work, although they may receive compensatory time off.

Legal assistants handle many routine assignments. Some find that these assignments offer little challenge and become frustrated with their duties. On the other hand, legal assistants usually assume more responsible tasks as they gain experience. Furthermore, as new laws and judicial interpretations emerge, legal assistants are exposed to many new legal problems that make their work more interesting and challenging.

Employment

Legal assistants held about 61,000 jobs in 1986. Private law firms employed the vast majority; most of the remainder worked for various levels of government. Legal assistants are found in nearly every Federal Government agency; the Departments of Justice, Treasury, Interior, and Health and Human Services and the General Services Administration are the largest employers. State and local governments and publicly funded legal service projects employed legal assistants as well. Banks, real estate development companies, and insurance companies also employed small numbers of legal assistants.

Training, Other Qualifications, and Advancement

There are several ways to enter the legal assistant profession. Increasingly, employers require formal legal assistant training. However, some employers prefer to train their legal assistants on the job. Entrants to this occupation include legal secretaries and high school and college graduates with no legal experience. Other entrants have experience in a technical field that is useful to law firms, such as a background in tax preparation for tax and estate practice or nursing or health administration for personal injury practice.

Several hundred formal legal assistant training programs are offered at 4-year colleges and universities, law schools, community and junior colleges, business schools, proprietary schools, and legal assistant associations. In

1986, nearly 100 programs had been approved by the American Bar Association (ABA); although approval by the ABA is neither required nor sought by many programs, graduation from an ABA-approved program can enhance one's employment opportunities. The requirements for admission to formal training programs vary widely. Some require some college courses or a bachelor's degree. Others accept high school graduates or persons with legal experience. A few schools require standardized tests and personal interviews.

Most legal assistant programs are completed in 2 years, although some take as long as 4 years and others only a few months. Some schools offer general legal assistant training with courses in many different areas of the law, including legal research techniques. Others provide training in specialized areas of the law, such as real estate, estate planning and probate, litigation, family law, contracts, criminal law, and income taxation. Many employers prefer applicants with training in a specialized area of the law. Some legal assistant training programs include an internship in which students gain practical experience by working in a law office, corporate legal department, or government agency. Depending on the program, graduates may receive a certificate, an associate degree, or, in some cases, a bachelor's degree.

The quality of legal assistant training programs varies; the better programs generally emphasize job placement. Prospective students should examine the experiences of recent graduates of programs in which they are considering enrolling.

Currently, legal assistants need not be certified. The National Association of Legal Assistants, however, has established standards for voluntary certification which require various combinations of education and experience. Legal assistants who meet these standards are eligible to take a 2-day examination given by the Certifying Board of Legal Assistants of the National Association of Legal Assistants each year at several regional testing centers. Persons who pass this examination may use the designation Certified Legal Assistant (CLA). This designation is a sign of competence in the field and may enhance one's employment and advancement opportunities.

Legal assistants must be able to handle legal problems logically and effectively communicate (both orally and in writing) their findings and opinions to their supervising attorney. They must understand legal terminology and have good research and investigative skills. Familiarity with the operation and applications of computers in legal research is increasingly important. Legal assistants must always stay abreast of new developments in the law that affect their area of practice.

Because legal assistants often deal with the public and other employees, they must be courteous and uphold the high ethical standards of the legal profession. A few States have established ethical guidelines that legal assistants in the State must follow.

Experienced legal assistants usually are given progressively more responsible duties and less

vision. In large law firms, corporate legal departments, and government agencies, experienced legal assistants may supervise other legal assistants and delegate work assigned by attorneys. Advancement opportunities include promotion to managerial and other law-related positions within the firm or corporate legal department.

Outlook

The number of job openings for legal assistants is expected to increase significantly through the year 2000, but so will the number of persons pursuing this career. Thus, competition for jobs should increase as the number of graduates from legal assistant training programs rises. Job prospects are expected to be good for graduates of highly regarded formal programs. Employment of legal assistants has grown tremendously since the emergence of this occupation in the late 1960's. Employment is expected to continue to grow much faster than average for all occupations through the year 2000. The emphasis on hiring legal assistants should continue in both legal and law-related fields so that the cost, availability, and efficiency of legal services can be improved. Because jobs arising from growth in demand for legal assistants, numerous job openings are expected to arise as persons leave the occupation for various reasons.

Private law firms will continue to be the largest employers of legal assistants as a growing population sustains the need for legal services. The growth of prepaid legal plans also should contribute to the demand for the services of law firms. Other organizations, such as corporate legal departments, insurance companies, real estate and title insurance firms, and banks will continue to hire legal assistants. Job opportunities are expected to expand throughout the private sector as companies become more aware of the value of legal assistants.

Job opportunities for legal assistants will expand even in the public sector. Community legal service programs—which provide assistance to the poor, the aged, minorities, and middle-income families—operate on limited budgets and will need more legal assistants to keep expenses down without having to limit services. Federal, State, and local government agencies, consumer organizations, and the courts also should continue to hire legal assistants in increasing numbers.

To a limited extent, legal assistant jobs are affected by the business cycle. During recessions, the demand for some discretionary legal services, such as planning estates, drafting wills, and handling real estate transactions, declines. Corporations are less inclined to initiate litigation when falling sales and profits lead to local belt tightening. As a result, legal assistants employed in offices adversely affected by recession may be laid off. On the other hand, during recessions, corporations and individuals face other legal problems, such as bankruptcies, foreclosures, and divorces, that require legal solutions. Furthermore, the continuous emergence of new laws and judicial interpretations creates new business for lawyers and

legal assistants without regard to the business cycle.

Earnings

Earnings of legal assistants vary greatly. Salaries depend on the training and experience the legal assistant brings to the job, the type of employer, and the geographic location of the job. Generally, legal assistants who work for large law firms or in large metropolitan areas earn more than those who work for smaller firms or in less populated regions.

Legal assistants had an average annual salary of about \$22,200 in 1986, according to a utilization and compensation survey by the National Association of Legal Assistants. Starting salaries of legal assistants averaged \$17,200, while legal assistants with from 3 to 5 years of experience averaged \$21,400 a year. Salaries of legal assistants with over 10 years of experience averaged \$25,200 annually, according to the same survey.

Legal assistants hired by the Federal Government in 1987 started at \$14,800 or \$18,400 a year, depending on their training and experience. The average annual salary of legal assistants who worked for the Federal Government in 1986 was about \$28,600.

Related Occupations

Several other occupations also call for a specialized understanding of the law and the legal system but do not require the extensive training of a lawyer. Some of these are abstractors, claim examiners, compliance and enforcement inspectors, occupational safety and health workers, patent agents, police officers, and title examiners.

Sources of Additional Information

General information on a career as a legal assistant and a list of legal assistant schools approved by the American Bar Association are available from:

Standing Committee on Legal Assistants, American Bar Association, 750 North Lake Shore Dr., Chicago, IL 60611.

For information on certification of legal assistants, schools that offer training programs in a specific State, and standards and guidelines for legal assistants, contact:

National Association of Legal Assistants, Inc., 1420 South Utica, Tulsa, OK 74104.

Information on a career as a legal assistant, training programs, and local legal assistant associations can be obtained from:

National Federation of Paralegal Associations, Suite 201, 104 Wilmet Rd., Deerfield, IL 60015-5195.

General information about job opportunities for legal assistants is available from:

Legal Assistant Management Association, P.O. Box 40129, Overland Park, KS 66204.

For information on legal assistant careers, training programs, and job opportunities, contact:

National Paralegal Association, P.O. Box 629, Doylestown, PA 18901.

Library Technicians

(D.O.T. 100.367-018)

Nature of the Work

Library technicians perform many support activities needed for the smooth operation of a library. They help librarians acquire, prepare, and organize material, and help users find materials and information. Technicians in small libraries handle a wide range of duties; those in large libraries usually specialize.

Library technicians are also known as *library technical assistants*. They answer questions about use of the card catalog, direct library users to standard references, organize and maintain periodicals, perform routine cataloging of library materials, file cards, verify information on order requests, and sometimes supervise other support staff. Some library technicians operate and maintain audiovisual equipment such as projectors and tape recorders. They may also assist library users with microfilm or microfiche readers, or retrieve information from a computer data base. Technicians sometimes work on special projects such as the design of posters that promote library services or displays on topics of current interest.

Those in school libraries teach students to use the school library/media center and encourage them to do so. They also help teachers get instructional materials and help students with special assignments. Some work in special libraries maintained by government agencies and corporations, as well as by law firms, advertising agencies, museums, professional societies, medical centers, and research laboratories. They conduct literature searches, compile bibliographies, and prepare abstracts, usually on subjects of particular interest to the organization.

Working Conditions

The job requires standing, stooping, bending, lifting, and reaching. Some duties like calculating circulation statistics can be repetitive and boring. Others, such as computer searches using local and regional library networks and cooperatives, can be interesting and challenging.

Library technicians in schools work regular school hours. Those in public libraries and college and university (academic) libraries may work weekends and evenings. Library technicians in special libraries—in government agencies, businesses, law firms, and medical and research centers—usually work a regular 40-hour week.

Employment

Library technicians held about 51,000 jobs in 1986. Most worked in school, academic, or public libraries.

The Federal Government employed about 3,600 library technicians. Most worked in Department of Defense libraries or in the Library of Congress.

4
HB 3
1/31/8

WRITTEN TESTIMONY

TO THE HOUSE BUSINESS AND ECONOMIC
DEVELOPMENT COMMITTEE
THE HONORABLE BOB PAVLOVICH, CHAIRMAN

January 31, 1989
Helena, Montana

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Chairman Pavlovich, Members of the Committee:

In 1987, the private investigators in Montana supported legislation which, among other things, removed paralegals and legal assistants from the list of those individuals exempted from the law regulating private investigators. That legislation resulted in an ambiguity. House Bill 326 restores the exemption of paralegals and legal assistants and the intent of the 1985 legislation. The 1987 revision raises this question: Can paralegals or legal assistants do investigation in the course and scope of their employment by attorneys?

The legal assistant profession began in the early 1970's as a way to lower the cost of rapidly rising legal fees. Skilled para-professionals could perform most of the duties of an attorney, but at a much lower cost to the client. The attorney, who is regulated by the state's Supreme Court, is ultimately responsible for all of a legal assistant's work. By the American Bar Association's definition, a legal assistant is "a person employed or retained by a lawyer, law office, governmental agency...under the ultimate direction and supervision of an attorney." (Emphasis added.)

To: House Business & Economic
Development Committee

January 31, 1989

Re: Written Testimony from Carol Bronson re HB 326

As the Montana statute now reads, the responsibility for supervision of a legal assistant appears to have been shifted to an entirely separate entity -- the Board of Private Security Patrolmen and Investigators. The situation is complicated by the fact that in order for a legal assistant to carry out the investigation that is necessary in litigation, they must become a licensed private investigator. But to become a licensed private investigator takes so much time (with a substantial amount of money paid to the Private Investigators Board!) that a paralegal working full time cannot become one.

Thus, attorneys are conceivably faced with a dilemma: In order to prepare the background research necessary for a trial, they must either do the investigation themselves (at great cost to the client) or hire a private investigator (at a greater cost to the client than if a legal assistant did it). Either way, the client loses and the cost of litigation rises.

The private investigators appear to have tried to limit the legal assistants' proven abilities, not out of a desire to protect consumers, but to prevent them from pursuing their vocation. This has the effect of decreasing legitimate competition and raising the cost of legal services. The private investigators will argue that they are trying to "regulate" the profession. Legal assistants respond by saying

To: House Business & Economic
Development Committee

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Re: Written Testimony from Carol Bronson re HB 326

that it is the attorneys' responsibility to monitor all activities and the Montana Supreme Court's responsibility to monitor the attorneys.

HB 326 must be passed; the private investigators cannot be allowed to "regulate" another profession.

Carol A. Bronson, C.L.A.
Carol A. Bronson, Certified Legal Assistant
733 32nd Avenue N.E.
Great Falls, MT 59404

CAB:kb

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Testimony of Michael J. Sherwood, representing MTLA

SUPPORTING HOUSE BILL NO. 326

January 31, 1989

The legal practice in Montana often involves small offices with less than 5 attorneys. Very few offices have in-house licensed investigators. Law students and paralegals often fill a much needed void for these offices by interviewing witnesses and general investigation of both criminal and civil cases. The use of these employees in this role is very cost effective to the client and time saving for the attorney supervising them.

Standard malpractice policies include the activities of such personnel and attorneys are careful to supervise, recognizing that the performance and attitude of these employees is a direct reflection upon the office of the attorney.

I support this bill and encourage a do pass vote upon it.

600 SHIELDS AVENUE BUTTE, MONTANA 59701 (406) 721-4081



January 30, 1989

Chairman Robert Pavlovich
Committee on Business and Economic Development
Montana House of Representatives
Capitol Building
Helena, Montana 59601

Chairman Pavlovich and Members of the Committee:

On behalf of Montana Resources and its 325 employees, I would like to thank you for the opportunity to speak during your meeting regarding HB 274 on Friday, January 27, 1989. As I stated during the hearing, Montana Resources is committed to being a good corporate citizen and we are resolved to solve the complaints of our local neighbors. We firmly believe that this problem can and must be solved in Butte. In order to clarify our position on this matter, I want to assure you that we will commit to the following plan of action:

1. Meet with all concerned citizen at a public meeting in Butte on January 27, 1989 at 7:30 p.m.
2. Continue to accept and investigate all reasonable complaints.
3. Engage the services of professional blasting experts to assure Montana Resources and the public that we are meeting all applicable regulations regarding the use of explosives.
4. Montana Resources will periodically update the DSL on our blasting activities.

Chairman Robert Pavlovich
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In the unlikely event it is determined that our use of explosives caused damage to our neighbors property, Montana Resources will be willing to repair the blasting related damage.

I hope this letter will clarify any misunderstanding that I may have left with your committee during my testimony.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ray", is written over the typed name.

R. V. Tilman
Vice President, Human Resources

RVT:db

cc: Representative Joe Quilici

VISITORS' REGISTER

Business

COMMITTEE

BILL NO.

321 326 334

DATE

1/31/89

SPONSOR

Please put the
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NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
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Lori Johns	1081 Yellowstone Trail Deer Lodge	X	
Benny Cople	2220 St Johns D-31 Billings	X	
GENE PHILLIPS	Box 759 Kalispell	X	
Garth Jacobson	Sec of State's Office	X	
Clayton Cain	Helena		X
Martin T. Munn	Helena		X
Joe Cyrie	Helena		X
Lee Kungshue	ONT Alex Deal Lodge	X	
Mike Sherwood	Mont. Trial Lawyers Assoc.	X	
James August	Helena		X
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.