

SENATE BILL NO. 119

INTRODUCED BY OCHSNER, HAGER, ETCHART, M. ANDERSON, LEE

IN THE SENATE

January 14, 1981	Introduced and referred to Committee on Judiciary.
January 23, 1981	Committee recommend bill do pass. Report adopted.
January 24, 1981	Bill printed and placed on members' desks.
January 26, 1981	Second reading, do pass.
January 27, 1981	Correctly engrossed.
January 28, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

January 29, 1981	Introduced and referred to Committee on Judiciary.
March 10, 1981	Committee recommend bill be concurred in. Report adopted.
March 11, 1981	Second reading, concurred in.
March 14, 1981	Third reading, concurred in. Ayes, 92; Noes, 1.

IN THE SENATE

March 16, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. *119*
 2 INTRODUCED BY *Debra Hoge - Stewart*
 3 *Mike Coulson - Co*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAW RELATING TO THE DUTIES OF THE CLERK OF
 6 DISTRICT COURT; AMENDING SECTIONS 3-5-501, 3-5-502, 3-5-503,
 7 3-5-513, AND 72-3-1015, MCA; AND REPEALING SECTION
 8 46-13-602, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 3-5-501, MCA, is amended to read:

12 "3-5-501. General duties. The clerk of the district
 13 court, in addition to keeping the records and performing the
 14 duties prescribed elsewhere, shall:

15 (1) take charge of and safely keep or dispose of
 16 according to law all books, papers, and records which are
 17 filed or deposited in his office;

18 (2) act as clerk of the district court and attend each
 19 term or session thereof and upon the judges at chambers when
 20 required;

21 (3) issue all process and notices required to be
 22 issued;

23 (4) enter all orders, judgments, and decrees proper to
 24 be entered;

25 (5) keep in each court a register of actions, as

1 provided in 3-5-504;

2 (6) keep for the district court two separate indexes,
 3 one labeled "general index--plaintiffs" and the other
 4 labeled "general index--defendants", which shall be in the
 5 form prescribed in 3-5-502;

6 (7) keep a minute book, which must contain the daily
 7 proceedings of court, ~~which~~ may be signed by the clerk--and
 8 ~~must be indexed in the names of both defendant and~~
 9 ~~plaintiff;~~

10 (8) keep a fee book, in which must be shown in an
 11 itemized form all fees that he has received for any services
 12 rendered in his capacity as clerk."

13 Section 2. Section 3-5-502, MCA, is amended to read:

14 "3-5-502. Indexes to court records. Each clerk of
 15 court in each county of the respective judicial districts of
 16 the state shall keep, in addition to the records required by
 17 law, ~~a book an~~ index called "General Index to--Court
 18 ~~Records-Plaintiffs"~~ and also a second book index to be
 19 called "~~inverse~~ General Index to--Court--Records--Defendants".
 20 ~~Each index shall be in a form determined by the clerk to~~
 21 ~~best fulfill the needs of the court and other users of the~~
 22 ~~index and shall contain, at a minimum, those entries~~
 23 ~~required by 3-5-503. The pages of the General Index shall be~~
 24 ~~divided into 10 columns, and the pages of the inverse~~
 25 ~~General Index shall be divided into five columns, with heads~~

1 to-the-respective-columns-as-follows*

2 For-the-General-Index-thus*

3 Now

4 Plaintiff

5 Defendant

6 Nature-of-Action

7 Date-Begun

8 Entries-in-Court-Record

9 Pages

10 Date-Dismissed

11 Date-of-Judgment

12 Amount-of-Judgment

13 Book-(Judgment-Record)

14 Page-(Judgment-Record)

15 Book-(Judgment-Booklet)

16 Page-(Judgment-Booklet)

17 Execution-Date-Issue

18 Book-(Execution-Book)

19 Page-(Execution-Book)

20 Book-(Order-of-Sale)

21 Page-(Order-of-Sale)

22 Date-Appealed

23 Remittitur-Date-Filed

24 Remarks

25 For-the-Inverse-General-Index-thus*

1 Now

2 Defendants

3 Plaintiffs

4 Nature-of-Action

5 Date-Begun"

6 Section 3. Section 3-5-503, MCA, is amended to read:

7 "3-5-503. Duties concerning indexes. Said clerk shall

8 cause to be made in each of-said-index-books index correct

9 entries, under the appropriate headings, of each and every

10 action begun in the court of which he is clerk, entering

11 them alphabetically by the name of the plaintiff in the

12 General Index-Plaintiffs and alphabetically by the name of

13 the defendants in the Inverse General Index-continuing-to

14 make-such-entries-in-the-manner-aforesaid-from-time-to-time

15 as-the-progress-of-the-case-may-require-Defendants."

16 Section 4. Section 3-5-513, MCA, is amended to read:

17 "3-5-513. Probate records. The clerk of the district

18 court shall:

19 (1) keep a book called "Record of Probate

20 Proceedings", which must contain all the orders and

21 proceedings of the district court sitting in probate matters

22 and must be indexed in the names of the deceased person and

23 the-executor-or-administrator-or-the-names-of--the-guardian

24 and-the or ward;

25 ~~(2) keep a book called the "Probate Record Book" in~~

1 ~~which--must--be--recorded--all--wills,--bonds,--letters--of~~
 2 ~~administration,--letters--testamentary,--and--other--papers--as~~
 3 ~~prescribed--by--law--and--which--must--be--indexed--in--the--same~~
 4 ~~manner--as--the--Record--of--Probate--Proceedings†~~

1 repealed.

-End-

5 (3)(2) keep a book called "Register of Probate and
 6 Guardianship Proceedings", in which must be entered the name
 7 of the estate and the register number with a memorandum of
 8 every paper filed and order or proceeding had therein, with
 9 the date thereof, and a memorandum of the fees charged."

10 Section 5. Section 72-3-1015, MCA, is amended to read:

11 "72-3-1015. Estate to be closed within two years. (1)
 12 If an estate has not been closed within 2 years from the
 13 date of appointment of the personal representative, the
 14 ~~clerk--of--the--district--court~~ supreme court administrator
 15 shall notify the district judge thereof. The judge shall
 16 order the personal representative and his attorney to appear
 17 before the court and show cause why the estate has not been
 18 closed.

19 (2) If, after the show cause hearing, the judge
 20 determines that good cause does not exist for failure to
 21 close the estate, the judge may make an order directing that
 22 the estate be closed within 30 days and that the personal
 23 representative and his attorney receive no fee or other
 24 compensation from the estate."

25 Section 6. Repealer. Section 46-18-602, MCA, is

SB 119

Approved by Committee
on Judiciary

1 *Senate* BILL NO. *119*
2 INTRODUCED BY *DeLaney Hago Etchart*
3 *Mike Anderson*

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18 (2) act as clerk of the district court and attend each
19 term or session thereof and upon the judges at chambers when
20 required;

21 (3) issue all process and notices required to be
22 issued;

23 (4) enter all orders, judgments, and decrees proper to
24 be entered;

25 (5) keep in each court a register of actions, as

1 provided in 3-5-504;

2 (6) keep for the district court two separate indexes,
3 one labeled "general index--plaintiffs" and the other
4 labeled "general index--defendants", which shall be in the
5 form prescribed in 3-5-502;

6 (7) keep a minute book, which must contain the daily
7 proceedings of court, which may be signed by the clerk--and
8 must---be---indexed---in---the---names---of---both---defendent---and
9 plaintiff;

10 (8) keep a fee book, in which must be shown in an
11 itemized form all fees that he has received for any services
12 rendered in his capacity as clerk."

13 Section 2. Section 3-5-502, MCA, is amended to read:

14 "3-5-502. Indexes to court records. Each clerk of
15 court in each county of the respective judicial districts of
16 the state shall keep, in addition to the records required by
17 law, ~~a--book~~ an index called "General Index ~~to--Court~~
18 ~~Records--Plaintiffs~~" and also a second book index to be
19 called "~~Inverse General Index to--Court--Records--Defendants~~".
20 Each index shall be in a form determined by the clerk to
21 best fulfill the needs of the court and other users of the
22 index and shall contain, at a minimum, those entries
23 required by 3-5-503. ~~The pages of the General Index shall be~~
24 ~~divided into 18 columns, and the pages of the inverse~~
25 ~~General Index shall be divided into five columns, with heads~~

1 to-the-respective-columns-as-follows†
 2 For-the-General-index-thus†
 3 Now
 4 Plaintiff
 5 Defendant
 6 Nature-of-Action
 7 Date-Begun
 8 Entries-in-Court-Record
 9 Pages
 10 Date-Dismissed
 11 Date-of-Judgment
 12 Amount-of-Judgment
 13 Book-(Judgment-Record)
 14 Page-(Judgment-Record)
 15 Book-(Judgment-Booklet)
 16 Page-(Judgment-Booklet)
 17 Execution-Date-Issue
 18 Book-(Execution-Book)
 19 Page-(Execution-Book)
 20 Book-(Order-of-Sale)
 21 Page-(Order-of-Sale)
 22 Date-Appealed
 23 Remittitur-Date-Filed
 24 Remarks
 25 For-the-Inverse-General-Index-thus†

1 now
 2 Defendants
 3 Plaintiffs
 4 Nature-of-Action
 5 Date-Begun
 6 Section 3. Section 3-5-503, MCA, is amended to read:
 7 "3-5-503. Duties concerning indexes. Said clerk shall
 8 cause to be made in each of said index books index correct
 9 entries, under the appropriate headings, of each and every
 10 action begun in the court of which he is clerk, entering
 11 them alphabetically by the name of the plaintiff in the
 12 General Index-Plaintiffs and alphabetically by the name of
 13 the defendants in the Inverse General Index-continuing-to
 14 make-such-entries-in-the-manner-aforesaid-from-time-to--time
 15 as-the-progress-of-the-case-may-require-Defendants."
 16 Section 4. Section 3-5-513, MCA, is amended to read:
 17 "3-5-513. Probate records. The clerk of the district
 18 court shall:
 19 (1) keep a book called "Record of Probate
 20 Proceedings", which must contain all the orders and
 21 proceedings of the district court sitting in probate matters
 22 and must be indexed in the names of the deceased person and
 23 the-executor-or-administrator-or-the-names-of--the--guardian
 24 and-the or ward;
 25 (2)--keep--a--book-called-the-"Probate-Record-Book"--in

1 ~~which must be recorded all wills, bonds, letters of~~
 2 ~~administration, letters testamentary and other papers as~~
 3 ~~prescribed by law and which must be indexed in the same~~
 4 ~~manner as the Record of Probate Proceedings;~~

1 repealed.

-End-

5 (3)(2) keep a book called "Register of Probate and
 6 Guardianship Proceedings", in which must be entered the name
 7 of the estate and the register number with a memorandum of
 8 every paper filed and order or proceeding had therein, with
 9 the date thereof, and a memorandum of the fees charged."

10 Section 5. Section 72-3-1015, MCA, is amended to read:

11 "72-3-1015. Estate to be closed within two years. (1)
 12 If an estate has not been closed within 2 years from the
 13 date of appointment of the personal representative, the
 14 ~~clerk of the district court~~ supreme court administrator
 15 shall notify the district judge thereof. The judge shall
 16 order the personal representative and his attorney to appear
 17 before the court and show cause why the estate has not been
 18 closed.

19 (2) If, after the show cause hearing, the judge
 20 determines that good cause does not exist for failure to
 21 close the estate, the judge may make an order directing that
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25 Section 6. Repealer. Section 46-18-502, MCA, is

1 *Smith* BILL NO. *119*
 2 INTRODUCED BY *Delander* *Hag* *Etchart*
 3 *Mike Coulson* *Carl*

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 22 issued;

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2 (6) keep for the district court two separate indexes,
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 19 called "~~Inverse~~ General Index ~~to--Court--Records--Defendants~~".
 20 Each index shall be in a form determined by the clerk to
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 23 required by 3-5-503. ~~The pages of the General Index shall be~~
 24 ~~divided into 18 columns, and the pages of the Inverse~~
 25 ~~General Index shall be divided into five columns, with heads~~

1 ~~to the respective columns as follows:~~
 2 ~~For the General Index thus:~~
 3 ~~Now~~
 4 ~~Plaintiff~~
 5 ~~Defendant~~
 6 ~~Nature of Action~~
 7 ~~Date Begun~~
 8 ~~Entries in Court Record~~
 9 ~~Pages~~
 10 ~~Date Dismissed~~
 11 ~~Date of Judgment~~
 12 ~~Amount of Judgment~~
 13 ~~Book (Judgment Record)~~
 14 ~~Page (Judgment Record)~~
 15 ~~Book (Judgment Docket)~~
 16 ~~Page (Judgment Docket)~~
 17 ~~Execution Date Issue~~
 18 ~~Book (Execution Book)~~
 19 ~~Page (Execution Book)~~
 20 ~~Book (Order of Sale)~~
 21 ~~Page (Order of Sale)~~
 22 ~~Date Appealed~~
 23 ~~Remittitur Date Filed~~
 24 ~~Remarks~~
 25 ~~For the Inverse General Index thus:~~

1 ~~Now~~
 2 ~~Defendants~~
 3 ~~Plaintiffs~~
 4 ~~Nature of Action~~
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 12 General Index-~~Plaintiffs~~ and alphabetically by the name of
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 22 and must be indexed in the names of the deceased person ~~and~~
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 24 ~~and the or ward;~~
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1 to-the-respective-columns-as-follows:
 2 For-the-General-Index-thus
 3 Now
 4 Plaintiff
 5 Defendant
 6 Nature-of-Action
 7 Date-Begun
 8 Entries-in-Court-Record
 9 Pages
 10 Date-Dismissed
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-End-