

HOUSE BILL NO. 45  
INTRODUCED BY WALDRON

IN THE HOUSE

January 3, 1983	Introduced and referred to Committee on Judiciary.
January 11, 1983	Committee recommends bill do pass as amended. Report adopted.
January 12, 1983	Bill printed and placed on members' desks.
January 13, 1983	Second reading, do pass.
January 14, 1983	Considered correctly engrossed.
January 15, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 17, 1983	Introduced and referred to Committee on Judiciary.
January 26, 1983	Committee recommend bill be concurred in. Report adopted.
January 28, 1983	Second reading, concurred in.
January 31, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

January 31, 1983	Returned to House.
February 1, 1983	Sent to enrolling. Reported correctly enrolled.

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2    INTRODUCED BY WALDRON  
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4    A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A FEE FOR  
5    DECLARATION OF MARRIAGE WITHOUT SOLEMNIZATION, ALLOCATING IT  
6    IN THE SAME MANNER AS A MARRIAGE LICENSE FEE; AMENDING  
7    SECTIONS 25-1-201 AND 40-1-311, MCA."  
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9    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10        Section 1. Section 25-1-201, MCA, is amended to read:  
11        "25-1-201. Fees of clerk of district court. (1) The  
12    clerk of the district court shall collect the following  
13    fees:  
14        (a) at the commencement of each action or proceeding,  
15    from the plaintiff or petitioner, \$20; and for filing a  
16    complaint in intervention, from the intervenor, \$20;  
17        (b) from each defendant or respondent, on his  
18    appearance, \$10;  
19        (c) on the entry of judgment, from the prevailing  
20    party, \$10;  
21        (d) for preparing copies of papers on file in his  
22    office, 25 cents per page;  
23        (e) for each certificate, with seal, 50 cents;  
24        (f) for oath and jurat, with seal, 50 cents;  
25        (g) for administering oath, 25 cents;

1                    (h) for taking depositions, per folio, 20 cents;  
2                    (i) for filing and docketing a transcript of judgment  
3    or abstract of judgment from all other courts, \$5;  
4                    (j) for issuing an execution or order of sale on a  
5    foreclosure of a lien, \$2;  
6                    (k) for transmission of records or files or transfer  
7    of a case to another court, \$5;  
8                    (l) for filing and entering papers received by  
9    transfer from other courts, \$10;  
10                   (m) for issuing a marriage license, \$30;  
11                   ~~(n) for filing a declaration of marriage without~~  
12    ~~solemnization, \$30;~~  
13                   ~~(n)(1)~~ on the filing of an application for informal,  
14    formal, or supervised probate or for the appointment of a  
15    personal representative or the filing of a petition for the  
16    appointment of a guardian or conservator, from the applicant  
17    or petitioner, \$35, which includes the fee for filing a will  
18    for probate.  
19                    (2) Except as provided in subsection (3), 40% of all  
20    fees collected by the clerk of the district court shall be  
21    deposited in and credited to the general fund of the county.  
22    The remaining portion of the fees shall be remitted to the  
23    state to be deposited as provided in 19-5-404.  
24                    (3) In the case of a fee collected for issuing a  
25    marriage license ~~or filing a declaration of marriage without~~

1 ~~solemnization~~, \$14 must be deposited in and credited to the  
 2 state general fund, \$6.40 must be deposited in and credited  
 3 to the county general fund, and \$9.60 must be remitted to  
 4 the state to be deposited as provided in 19-5-404."

5 Section 2. Section 40-1-311, MCA, is amended to read:  
 6 "40-1-311. Declaration of marriage without  
 7 solemnization. (1) Persons desiring to consummate a marriage  
 8 by written declaration in this state without the  
 9 solemnization provided for in 40-1-301 must, prior to  
 10 executing the declaration, secure the medical certificate  
 11 required by this chapter, which shall be firmly attached to  
 12 the declaration and shall be filed by the clerk of the  
 13 district court in the county where the contract was  
 14 executed.

15 (2) A declaration of marriage must contain  
 16 substantially the following:

- 17 (a) the names, ages, and residences of the parties;
- 18 (b) the fact of marriage;
- 19 (c) the name of father and maiden name of mother of  
 20 both parties and address of each;
- 21 (d) a statement that both parties are legally  
 22 competent to enter into the marriage contract.

23 (2)(2) The declaration must be subscribed by the  
 24 parties and attested by at least two witnesses and formally  
 25 acknowledged before the clerk of the district court of the

1 county.

2 (4) The fee for filing a declaration is \$30 and shall  
 3 be paid to the clerk at time of filing."

-End-

## STATE OF MONTANA

043-83  
REQUEST NO. \_\_\_\_\_

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, 19 83, there is hereby submitted a Fiscal Note for House Bill 45 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 45 is an act to establish a fee for declaration of marriage without solemnization.

ASSUMPTIONS:

- 1) Estimate an additional 100 marriages per year relate to the bill.
- 2) Assume this estimate is the same for both FY '84 and FY '85.

FISCAL IMPACT:

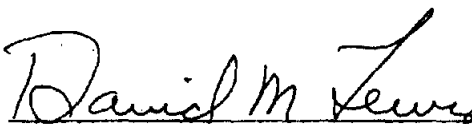
	<u>FY 84 &amp; 85</u>
Estimated amount under current law	\$191,160
Estimated amount under proposed law	193,520
Increase in revenue	<u>\$ 2,360</u>
 General Fund	 \$ 1,400
Expendable Trust Fund	960
Totals	<u>\$ 2,360</u>

LOCAL IMPACT:

\$6.40 of the marriage fee is deposited in the county general fund.

An increase of \$640 in revenue would result from the bill.

FISCAL NOTE2:AA/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-11-83

Approved by Committee  
on Judiciary

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11          ~~(n) for filing a declaration of marriage without~~  
12   ~~solemnization, \$30;~~  
13          ~~(n)(2)~~ on the filing of an application for informal,  
14   formal, or supervised probate or for the appointment of a  
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23   state to be deposited as provided in 19-5-404.  
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25   marriage license ~~or filing a declaration of marriage without~~

SECOND READING

solemnization, \$14 must be deposited in and credited to the state general fund, \$6.40 must be deposited in and credited to the county general fund, and \$9.60 must be remitted to the state to be deposited as provided in 19-5-404."

Section 2. Section 40-1-311, MCA, is amended to read:

"40-1-311. Declaration of marriage without solemnization. (1) Persons desiring to consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301 must, prior to executing the declaration, secure the medical certificate required by this chapter, which shall be firmly attached to the declaration and shall be filed by the clerk of the district court in the county where the contract was executed.

(2) A declaration of marriage must contain substantially the following:

(a) the names, ages, and residences of the parties;

(b) the fact of marriage;

(c) the name of father and maiden name of mother of both parties and address of each;

(d) a statement that both parties are legally competent to enter into the marriage contract.

(2) The declaration must be subscribed by the parties and attested by at least two witnesses and formally acknowledged before the clerk of the district court of the

county.

(4) The fee for filing a declaration is \$30 and shall be paid to the clerk at time of filing."

SECTION 3. SECTION 40-2-405, MCA, IS AMENDED TO READ:

"40-2-405. Funding. (1) Revenue from the marriage license fee and the fee collected for filing a declaration of marriage without solemnization is the primary source of funding for the battered spouses and domestic violence program. The disposition of the marriage license fee is as established in 25-1-201.

(2) Twenty percent of the operational costs of a battered spouses and domestic violence program must come from the local community served by the program. The local contribution may include in-kind contributions."

-End-

Approved by Committee  
on Judiciary

*As Amended*

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