

HOUSE BILL NO. 409
INTRODUCED BY PAVLOVICH

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 8, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 9, 1993	PRINTING REPORT.
FEBRUARY 10, 1993	SECOND READING, DO PASS.
FEBRUARY 11, 1993	ENGROSSING REPORT.
FEBRUARY 13, 1993	THIRD READING, PASSED. AYES, 99; NOES, 0.
FEBRUARY 15, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 15, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 16, 1993	SECOND READING, CONCURRED IN.
MARCH 17, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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INTRODUCED BY

House BILL NO. 409

Carlson

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT POOR PERSONS PROVIDE A FINANCIAL STATEMENT AND THAT A COURT ORDER OF APPROVAL BE ISSUED BEFORE FILING FEES ARE WAIVED; AND AMENDING SECTION 25-10-404, MCA."

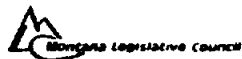
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-10-404, MCA, is amended to read:

"25-10-404. Poor persons not required to prepay fees.

Any A person, who will file may request a waiver of fees by filing an affidavit, supported by a financial statement, stating that he the person has a good cause of action or defense and that ~~he~~ is unable to pay the costs or procure security to secure the ~~same~~ cause of action or defense. Upon issuance of an order of the court approving a request for waiver of fees, the person may commence and prosecute or defend an action in any of the courts and administrative tribunals of this state; ~~then it is hereby made the duty of~~ and the officers of the courts and administrative tribunals to shall issue and serve all writs ~~and serve the same and~~ perform all services in the action without demanding or receiving their fees in advance."

-End-



HB 409
INTRODUCED BILL

APPROVED BY COMMITTEE
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House BILL NO. 409

INTRODUCED BY Peter

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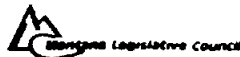
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-End-



HB 409
SECOND READING

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INTRODUCED BY

House BILL NO. 409
Pastorik

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT POOR PERSONS PROVIDE A FINANCIAL STATEMENT AND THAT A COURT ORDER OF APPROVAL BE ISSUED BEFORE FILING FEES ARE WAIVED; AND AMENDING SECTION 25-10-404, MCA."

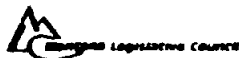
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-End-



HB 409
THIRD READING

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 15, 1993

Page 2 of 2
March 15, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 409 (first reading copy -- blue), respectfully report that House Bill No. 409 be amended as follows and as so amended be concurred in.

Signed: William "Bill" Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 5.

Following: "COURT"

Insert: "OR ADMINISTRATIVE TRIBUNAL"

2. Title, line 6.

Following: "WAIVED;"

Insert: "PROVIDING AN EXCEPTION TO THE FINANCIAL STATEMENT REQUIREMENT; ALLOWING FILING OF A PLEADING SUBJECT TO SUBSEQUENT APPROVAL OF INDIGENCE STATUS; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ADOPT AN AFFIDAVIT FORM BY RULE;"

3. Page 1, line 8.

Following: line 7

Insert: "

STATEMENT OF INTENT

A statement of intent is required for this bill because 25-10-404 authorizes the department of justice to adopt a form for a financial statement by rule. It is the intent of the legislature that the form require sufficient information regarding income and assets to allow a reasonable determination of indigence. The department may, in developing the rules, use the affidavit form currently used by Lewis and Clark County as a model."

4. Page 1, line 12.

Strike: "A"

Insert: "(1) Except as provided in subsection (3), a"

5. Page 1, line 17.

Strike: "Upon"

Insert: "Except as provided in subsection (2), upon"

Following: "court"

Insert: "or administrative tribunal"

6. Page 1.

Following: line 24

Insert: "(2) If a judge or presiding officer of an administrative tribunal is not available to approve a request for a waiver of fees prior to filing a pleading, the pleading must be filed subject to subsequent approval. If the request is subsequently denied, the fees must be paid before the case may proceed further.

(3) A person represented by an entity that provides free legal services to indigent persons is not required to file the financial statement required by subsection (1).

(4) The department of justice shall, by rule, prescribe the form of the financial statement required by subsection (1) for use in determining indigence. The form may require the disclosure of income and assets, including but not limited to the ownership of real and personal property, cash, and savings."

-END-

AW Amd. Coord.
Sec. of Senate

Lynch
Senator Carrying Bill

HB 409
581221SC.San

SENATE

HB 409
581221SC.San

HOUSE BILL NO. 409

INTRODUCED BY PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT POOR PERSONS PROVIDE A FINANCIAL STATEMENT AND THAT A COURT OR ADMINISTRATIVE TRIBUNAL ORDER OF APPROVAL BE ISSUED BEFORE FILING FEES ARE WAIVED; PROVIDING AN EXCEPTION TO THE FINANCIAL STATEMENT REQUIREMENT; ALLOWING FILING OF A PLEADING SUBJECT TO SUBSEQUENT APPROVAL OF INDIGENCE STATUS; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ADOPT AN AFFIDAVIT FORM BY RULE; AND AMENDING SECTION 25-10-404, MCA."

STATEMENT OF INTENT

A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE 25-10-404 AUTHORIZES THE DEPARTMENT OF JUSTICE TO ADOPT A FORM FOR A FINANCIAL STATEMENT BY RULE. IT IS THE INTENT OF THE LEGISLATURE THAT THE FORM REQUIRE SUFFICIENT INFORMATION REGARDING INCOME AND ASSETS TO ALLOW A REASONABLE DETERMINATION OF INDIGENCE. THE DEPARTMENT MAY, IN DEVELOPING THE RULES, USE THE AFFIDAVIT FORM CURRENTLY USED BY LEWIS AND CLARK COUNTY AS A MODEL.

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

Section 1. Section 25-10-404, MCA, is amended to read:

"25-10-404. Poor persons not required to prepay fees.

Any A (1) EXCEPT AS PROVIDED IN SUBSECTION (3), A person, who will file may request a waiver of fees by filing an affidavit, supported by a financial statement, stating that he the person has a good cause of action or defense and that he is unable to pay the costs or procure security to secure the same, cause of action or defense. Upon EXCEPT AS PROVIDED IN SUBSECTION (2), UPON issuance of an order of the court OR ADMINISTRATIVE TRIBUNAL approving a request for waiver of fees, the person may commence and prosecute or defend an action in any of the courts and administrative tribunals of this state; then it is hereby made the duty of and the officers of the courts and administrative tribunals to shall issue and serve all writs and serve the same and perform all services in the action without demanding or receiving their fees in advance.

(2) IF A JUDGE OR PRESIDING OFFICER OF AN ADMINISTRATIVE TRIBUNAL IS NOT AVAILABLE TO APPROVE A REQUEST FOR A WAIVER OF FEES PRIOR TO FILING A PLEADING, THE PLEADING MUST BE FILED SUBJECT TO SUBSEQUENT APPROVAL. IF THE REQUEST IS SUBSEQUENTLY DENIED, THE FEES MUST BE PAID BEFORE THE CASE MAY PROCEED FURTHER.

(3) A PERSON REPRESENTED BY AN ENTITY THAT PROVIDES FREE LEGAL SERVICES TO INDIGENT PERSONS IS NOT REQUIRED TO FILE THE FINANCIAL STATEMENT REQUIRED BY SUBSECTION (1).

(4) THE DEPARTMENT OF JUSTICE SHALL, BY RULE, PRESCRIBE

1 THE FORM OF THE FINANCIAL STATEMENT REQUIRED BY SUBSECTION
2 (1) FOR USE IN DETERMINING INDIGENCE. THE FORM MAY REQUIRE
3 THE DISCLOSURE OF INCOME AND ASSETS, INCLUDING BUT NOT
4 LIMITED TO THE OWNERSHIP OF REAL AND PERSONAL PROPERTY,
5 CASH, AND SAVINGS."

-End-