SENATE BILL 9

Introduced by Towe

12/23	Introduced
12/23	Referred to Judiciary
1/04	First Reading
1/04	Fiscal Note Requested
1/11	Fiscal Note Received
1/12	Fiscal Note Printed
1/14	Hearing
1/28	Tabled in Committee
2/12	Committee ReportBill Passed as Amended
2/13	2nd Reading Passed
2/15	3rd Reading Passed
	Transmitted to House
2/23	Referred to Judiciary
2/23	First Reading
3/12	Hearing
3/26	Tabled in Committee

2

25

5	REFORMING PROCEDURES IN SMALL CLAIMS COURTS AND JUSTICES'
6	COURTS; PROVIDING THAT IF A DEFENDANT IN SMALL CLAIMS COURT
7	APPEALS TO DISTRICT COURT AND LOSES, THE PLAINTIFF MAY BE
8	AWARDED ATTORNEY FEES; PROVIDING THAT JURISDICTION IN SMALL
9	CLAIMS COURTS IS NOT LIMITED TO A COUNTY IN WHICH A
10	DEFENDANT CAN BE SERVED; PROVIDING THAT SERVICE OF PROCESS
11	IN SMALL CLAIMS COURTS IS THE SAME AS IN JUSTICES' COURTS;
12	MAKING CONSISTENT THE DOLLAR LIMITATIONS FOR JURISDICTION IN
13	SMALL CLAIMS COURTS; PROVIDING THAT COUNTY COMMISSIONERS MAY
14	EITHER APPOINT OR AUTHORIZE NONATTORNEY COURT ASSISTANTS TO
15	ASSIST CIVIL LITIGANTS IN CERTAIN COURTS OF LIMITED
16	JURISDICTION; AMENDING SECTIONS 3-10-1004, 3-12-106,
17	25-31-601, 25-34-102, 25-35-502, 25-35-503, 25-35-604, AND
18	25-35-806, MCA; AND PROVIDING AN EFFECTIVE DATE."
19	
20	WHEREAS, the purpose of [sections 1 through 11] is to
21	make Small Claims Courts and Justices' Courts more
22	accessible and functional for persons without legal training
23	or adequate funds to hire a lawyer; and
24	WHEREAS, it is the Legislature's intent to keep Small

Claims Courts functioning well as a forum by enhancing their

SENATE BILL NO. 9

INTRODUCED BY TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND

3	reducing the burden of claims on the other courts and
4	reducing costs; and
5	WHEREAS, it is the intent of the Legislature to reduce
6	the cost deterrent in litigation over small claims and to
7	minimize inequities between business and individual
8	litigants by emphasizing the plaintiff's perspective rather
9	than the defendant's perspective; and
10	WHEREAS, in addition, it is the intent of the
11	Legislature to provide an effective means of assistance for
12	litigants in courts of limited jurisdiction who may not have
13	the means to hire an attorney. The Legislature finds that
14	fewer and fewer attorneys are willing to represent clients
15	in courts of limited jurisdiction because of the limited
16	dollar amount involved or for other reasons. Often citizens
17	find themselves involved in litigation without benefit of
18	counsel in cases in which the expense of hiring legal
19	counsel in relation to the dollar amount of the claim is a
20	deterrent to bringing the claim. The Legislature further
21	finds that as a matter of public policy, it is desirable
22	that litigants have the benefit of advice from a person
23	knowledgeable in procedures in the courts of limited
24	jurisdiction pursuant to the limitations set forth in
25	[sections 1 through 11].

ability to handle small claims quickly and informally in a

manner that is not intimidating to claimants, thereby

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

 Section 1. Section 3-10-1004, MCA, is amended to read:

 "3-10-1004. Jurisdiction -- removal from district court. (1) The small claims court has jurisdiction over all actions for the recovery of money or specific personal property when the amount claimed does not exceed \$3,000, exclusive of costs--and-the-defendant-can-be-served-within
- 10 (2) A district court judge may require any action filled
 11 in district court to be removed to the small claims court of
 12 the amount in controversy does not exceed \$3,000. The small
 13 claims court shall hear any action so removed from the
 14 district court."

the-county-where-the-action-is-commenced.

- Section 2. Section 3-12-106, MCA, is amended to read:
- 16 *3-12-106. Jurisdiction -- removal from district court.
- 17 (1) The small claims court has original jurisdiction in all actions for the recovery of money or specific personal
- 19 property when:

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- 20 (a) such the action arises out of a contract, express
 21 or implied; and
- 22 (b) the amount of the claim, exclusive of costs, does 23 not exceed \$2,500,-and \$3,000
- 24 (c)--the-defendant-can-be-served-within--the--county--or 25 counties-for-which-the-small-claims-court-has-been-created.

- 1 (2) More than one claim may be joined if all claims
 2 joined would separately meet the requirements for
 3 jurisdiction in the small claims court and the total value
 4 of money claimed or property sought does not exceed \$2,7500
 5 \$3,000.
- 6 (3) A district court judge may require any action filed
 7 in district court to be removed to the small claims court if
 8 the amount in controversy does not exceed \$2,500 \$3,000. The
 9 small claims court shall hear any action so removed from the
 10 district court."
- 11 Section 3. Section 25-31-601, MCA, is amended to read:
- "25-31-601. Who may act as attorney. Parties in justice's court may appear and act in person or by attorney; and. As provided in {section 9}, any person, except the constable by whom the summons or jury process was served, may act as attorney."
- 17 Section 4. Section 25-34-102, MCA, is amended to read:
- 18 "25-34-102. Jurisdiction -- joinder -- interpleader.
- 19 (1) The small claims court has original jurisdiction in all
- 20 actions for the recovery of money or specific personal
- 22 express or implied, and the amount of the claim, exclusive

property when such the action arises out of a contract,

- english of implied,
- of costs, does not exceed \$2,7500 $\frac{$3,000}{7}$ -and-the-defendant
- 24 can-be-served-within-the-county-or-counties--for--which--the
- 25 small-claims-court-has-been-created.

(2) More than one claim may be joined if all claims joined would separately meet the requirements for jurisdiction in the small claims court and the total value of money claimed or property sought does not exceed \$2,500 \$3,000.

is-commenced.

- 6 (3) The small claims court has jurisdiction over an 7 interpleader under 25-34-106 in which the amount claimed 8 does not exceed \$27500 \$3,000."
- Section 5. Section 25-35-502, MCA, is amended to read:

 10 *25-35-502. Jurisdiction. (1) The small claims court

 11 has jurisdiction over all actions for the recovery of money

 12 or specific personal property when the amount claimed does

 13 not exceed \$27500 \$3,000, exclusive of costs7--and--the

 14 defendant--can-be-served-within-the-county-where-the-action
 - (2) The small claims court has jurisdiction over an interpleader under 25-35-508 in which the amount claimed does not exceed \$27500 \$3,000."
- Section 6. Section 25-35-503, MCA, is amended to read:

 20 *25-35-503. Removal from district court. A district

 21 court judge may require any action filed in district court

 22 to be removed to the small claims court if the amount in

 23 controversy does not exceed \$27500 \$3,000. The small claims

 24 court shall hear any action so removed from the district

 25 court."

- Section 7. Section 25-35-604, MCA, is amended to read:

 "25-35-604. Service on defendant ----return. (1) The

 original of the order and notice shall must be shown-to--the

 defendant,--and--a-copy-of-it-along-with-a-copy-of-the-sworn

 complaint-shall-be served upon the defendant by-the-sheriff,

 constable,-or--other--process--server in the same manner

 provided by law for service of process in civil actions

 commenced in justice's court. The-provisions-of-law-relating

 to-sheriff's-fees-are-applicable-to-this-section:
 - (2)--The-sheriff;-constable;--or--other--process--server shall;-after-effecting-service;-return-the-original-order-to the-justice-of-the-peace-or-his-clerk-;"

 Section 8. Section 25-35-806, MCA, is amended to read:
 - "25-35-806. Attorney's Attorney fees upon appeal or removal. (1) If the-parties-are-represented-by-counsel--on appeal a defendant appeals a matter to district court under the provisions of 25-35-803 but does not prevail in district court, the court may grant the prevailing--party---his plaintiff reasonable attorney's attorney fees, in addition to costs.
 - (2) If a defendant removes a matter to justice's court under the provisions of 25-35-605(1) but does not prevail in justice's court, the court may grant the plaintiff his reasonable attorney's attorney fees, if any."
- 25 NEW SECTION. Section 9. Court assistants --

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1	appointment or authorization by county commissioners
2	qualifications. The county commissioners may, after
3	consultation with the justices of the peace within the
4	county, appoint one or more court assistants to provide
5	litigants in civil cases in the justice's court, at the
6	county's expense, with advice on filing and litigating
7	claims in the justice's court. In the alternative, the
8	county commissioners may, after consultation with the
9	justices of the peace within the county, authorize
10	individuals to act as court assistants and to charge fees.
11	Providing litigants assistance under this section in
12	bringing a case before the justice's court in the county
13	does not constitute the practice of law, and a court
14	assistant appointed or authorized under this section is not
15	required to be a licensed attorney. The county commissioners
16	shall consult with the justices of the peace within the
17	county to determine the qualifications and criteria used in
18	\boldsymbol{making} the appointments or authorizations. A court assistant
19	may not represent a client in court and may only advise a
20	client in the areas of court procedures, drafting pleadings,
21	conducting discovery, and presentation of the case in
22	justice's court.

23 <u>NEW SECTION.</u> Section 10. Court assistants -24 appointment or authorization by county commissioners -25 qualifications. The county commissioners may, after

1 consultation with the justices of the peace within the 2 county, appoint one or more court assistants to provide litigants in civil cases in the small claims court, at the county's expense, with advice on filing and litigating claims in the small claims court. In the alternative, the county commissioners may, after consultation with the justices of the peace within the county, authorize individuals to act as court assistants and to charge fees. Providing litigants assistance under this section in 10 prosecuting a case before the small claims court in the 11 county does not constitute the practice of law, and a court 12 assistant appointed or authorized under this section is not 13 required to be a licensed attorney. The county commissioners 14 shall consult with the justices of the peace within the county to determine the qualifications and criteria used in 15 making the appointments or authorizations. A court assistant 16 17 may not represent a client in court and may only advise a 18 client in the areas of court procedures, drafting pleadings, conducting discovery, and presentation of the case in small 19 20 claims court.

NEW SECTION. Section 11. Court assistants — appointment or authorization by county commissioners — qualifications. The county commissioners may, after consultation with the small claims court judges of the district courts within the county, appoint one or more court

- assistants to provide litigants in civil cases in the small 1 2 claims court, at the court's expense, advice on filing and litigating claims in the small claims court. In the 3 alternative, the county commissioners may, after 5 consultation with the small claims court judges of the district courts within the county, authorize individuals to 6 7 act as court assistants and to charge fees. Providing litigants assistance under this section in prosecuting a 8 9 case before the small claims court in the county does not 10 constitute the practice of law, and a court assistant appointed or authorized under this section is not required 11 to be a licensed attorney. The county commissioners shall 12 13 consult with the small claims court judges of the district 14 courts within the county to determine the qualifications and 15 criteria used in making the appointments or authorizations. 16 A court assistant may not represent a client in court and may only advise a client in the areas of court procedures, 17 18 drafting pleadings, conducting discovery, and presentation 19 of the case in small claims court.
- NEW SECTION. Section 12. Codification instruction. (1)
 [Section 9] is intended to be codified as an integral part
 of Title 25, chapter 31, part 6, and the provisions of Title
 25, chapter 31, part 6, apply to [section 9].
- 24 (2) [Section 10] is intended to be codified as an 25 integral part of Title 25, chapter 35, part 5, and the

- provisions of Title 25, chapter 35, part 5, apply to section 101.
- 3 (3) [Section 11] is intended to be codified as an 4 integral part of Title 25, chapter 34, part 1, and the 5 provisions of Title 25, chapter 34, part 1, apply to 6 [section 11].
- NEW SECTION. Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
- NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for <u>SB0009</u>, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising and reforming procedures in small claims courts and justice courts.

ASSUMPTIONS:

- 1. The bill will have no identifiable fiscal impact on the state funded judiciary.
- 2. The increase in the dollar limitation for small claims court from \$2,500 to \$3,000 may increase claims in these courts. The potential impact on claims and fiscal impact is unknown.
- 3. Appointment of court assistants at the discretion of county commissioners may increase the number of claims filed in justice and small claims courts. The appointment of court assistants at county expense may increase costs for county government. The potential impact on claims and fiscal impact is unknown.

FISCAL IMPACT:

Unknown.

<u>EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:</u> The appointment of court assistants at county expense may increase county costs, but the impact is unknown.

DAVE LEWIS, BUDGET DIRECTOR

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Office of Budget and Program Planning

TOM TOWE, PRIMARY SPONSOR

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Fiscal Note for SB0009, as introduced

SB 0009/02 53rd Legislature

APPROVED BY COMMITTEE ON JUDICIARY

1	SENATE BILL NO. 9
2	INTRODUCED BY TOWE
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY-REVISINGAND
5	REPORMINGPROCEDURESINSMALL-CLAIMS-COURTS-AND-JUSTICES1
6	courts;-providing-that-ip-a-defendant-in-small-claimscourt
7	Appeabs to bistrict court-and-los es,-the-plaintiff-may-be
8	AWARDED-ATTORNEY-PRES; PROVIDING THAT JURISDICTION IN SMALL
9	CLAIMS COURTS IS NOT LIMITED TO A COUNTY IN WHICH A
10	DEFENDANT CAN BE SERVED; PROVIDING THAT SERVICE OF PROCESS
11	IN SMALL CLAIMS COURTS IS THE SAME AS IN JUSTICES' COURTS;
12	MAKING-CONSISTENT-THE-BOLLAR-LIMITATIONS-POR-JURISSICTION-IN
13	SMALL-CLAIMS-COURTS;-PROVIDING-THAT-COUNTY-COMMISSIONERS-MAY
14	Either-appoint-or-authorise-nonattorney-court-assistantsto
15	ASSISTCIVIDbitigantsincertaincourtsopbimited
16	JURISDICTION: AND AMENDING SECTIONS 3-10-1004, 3-12-106,
17	25-31-6017 25-34-102, 25-35-5027-25-35-5037 AND 25-35-604,
18	AND-25-35-0067 MCA;-AND-PROVIDING-AN-EPPECTIVE-DATE."
19	
20	WHEREAS7-the-purpose-of-{sections-1-through11}isto
21	makeSmallClaimsCourtsandJusticesCourtsmore
22	accessible-and-functional-for-persons-without-legal-training
23	or-adequate-funds-to-hire-a-lawyer;-and
24	WHEREASy-it-is-the-begislature's-intenttokeepSmall
25	Cimims-Courts-functioning-well-as-a-forum-by-enhancing-their

_
reducing-the-burdenofclaimsontheothercourtsand
reducing-costs;-and
WHEREAS;itis-the-intent-of-the-begislature-to-reduce
the-cost-deterrent-in-litigation-over-smallclaimsandto
minimizeinequitiesbetweenbusinessandindividual
litigants-by-emphasizing-the-plaintiff's-perspectiverather
than-the-defendant's-perspective;-and
WHEREAS;inaddition;itistheintentofthe
begislature-to-provide-an-effective-means-of-assistancefor
litigants-in-courts-of-limited-jurisdiction-who-may-not-have
themeanstohire-an-attorney:-The-begislature-finds-that
fewer-and-fewer-attorneys-are-willing-torepresentclients
incourtsoflimitedjurisdiction-because-of-the-limited
dollar-amount-involved-or-for-other-reasons:-Oftencitizens
findthemselvesinvolvedin-litigation-without-benefit-of
counsel-in-casesinwhichtheexpenseofhiringlegal
counselinrelation-to-the-dollar-amount-of-the-claim-is-a
deterrent-to-bringing-theclaimThebegislaturefurther
finds-that-as-a-matter-of-public-policyy-it-is-desirable
that-litigants-have-the-benefitofadvicefromaperson
knowledgeableinproceduresinthecourtsoflimited
jurisdictionpursuanttothelimitationssetforthin
{sections-1-through-11}-

ability--to--handle-small-claims-quickly-and-informally-in-a

manner--that--is--not--intimidating--to--claimants;--thereby



SB 0009/02

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

Section 1. Section 3-10-1004, MCA, is amended to read:

"3-10-1004. Jurisdiction -- removal from district

- 3
- 5 court. (1) The small claims court has jurisdiction over all
- actions for the recovery of money or specific personal
- property when the amount claimed does not exceed \$3,000,
 - exclusive of costsy-and-the-defendant-can-be--served--within
- 9 the-county-where-the-action-is-commenced.
- 10 (2) A district court judge may require any action filed
- 11 in district court to be removed to the small claims court if
- 12 the amount in controversy does not exceed \$3,000. The small
- 13 claims court shall hear any action so removed from the
- 14 district court."

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- Section 2. Section 3-12-106, MCA, is amended to read: 15
- "3-12-106. Jurisdiction -- removal from district court. 16
- (1) The small claims court has original jurisdiction in all 17
- actions for the recovery of money or specific personal 18
- 19 property when:
- 20 (a) such the action arises out of a contract, express
- or implied; and 21
- (b) the amount of the claim, exclusive of costs, does 22
- 23 not exceed \$2,500,-and \$3,000
- 24 (c)--the--defendant--can--be-served-within-the-county-or
- 25 counties-for-which-the-small-claims-court-has-been-created.

- (2) More than one claim may be joined if all claims 1 joined would separately meet the requirements for 3 jurisdiction in the small claims court and the total value of money claimed or property sought does not exceed \$2,500 5 \$3,000.
- (3) A district court judge may require any action filed 7 in district court to be removed to the small claims court if the amount in controversy does not exceed \$2,500 \$3,000. The 9 small claims court shall hear any action so removed from the 10 district court."
- 11 Section-3---Section-25-31-6017-MCA7-is-amended-to-read:
- 12 #25-31-601:--Who--may--act--as--attorney:---Parties---in
- 13 justiceis-court-may-appear-and-act-in-person-or-by-attorney;
- 14 and--As--provided--in--{section--9}, any-person,-except-the
- 15 constable-by-whom-the-summons-or-jury--process--was--served;
- 16 may-act-as-attorney-"
- 17 Section 3. Section 25-34-102, MCA, is amended to read:
- 18 "25-34-102. Jurisdiction -- joinder -- interpleader.
- 19 (1) The small claims court has original jurisdiction in all
- 20 actions for the recovery of money or specific personal
- 21 property when such the action arises out of a contract,
- 22 express or implied, and the amount of the claim, exclusive
- 23 of costs, does not exceed \$2,500 \$3,000,-and--the--defendant
- 24 can-be-served-within-the-county-or-counties-for-which-the
- 25 small-claims-court-has-been-created.

ı	(2) More than one claim may be joined if all claims
2	joined would separately meet the requirements for
3	jurisdiction in the small claims court and the total value
4	of money claimed or property sought does not exceed \$27500
5	\$3,000.
6	(3) The small claims court has jurisdiction over an
7	interpleader under 25-34-106 in which the amount claimed
8	does not exceed \$2,500 \$3,000."
9	Section-5:Section-25-35-5027-MCA7-is-amended-to-read:
.0	#25-35-502:Jurisdiction:-(1)-Thesmallclaimscourt
11	hasjurisdiction-over-all-actions-for-the-recovery-of-money
12	or-specific-personal-property-when-the-amountclaimeddoes
1.3	notexceed927500 9370007exclusiveofcosts7and-the
14	defendant-can-be-served-within-the-county-wheretheaction
15	is-commenced:
16	(2)Thesmallclaimscourthas-jurisdiction-over-an
17	interpleader-under-25-35-508-inwhichtheamountclaimed
18	does-not-exceed-927500 937000:
19	Section-6Section-25-35-5037-MCA7-is-amended-to-read:
20	#25-35-503;RemovalfromdistrictcourtyA-district
21	court-judge-may-require-any-action-filed-indistrictcour

to--be--removed--to--the-small-claims-court-if-the-amount-in

controversy-does-not-exceed-\$27500 937000:-The-small--claims

court--shall--hear--any--action-so-removed-from-the-district

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court."

1	Section 4. Section 25-35-604, MCA, is amended to read:
2	*25-35-604. Service on defendantreturn. (1) The
3	original of the order and notice shall must be shown-to-the
4	defendantand-a-copy-of-it-along-with-a-copy-ofthesworn
5	complaint-shall-be served upon the defendant by-the-sheriff,
6	constable;orotherprocessserver in the same manner
7	provided by law for service of process in civil actions
8	commenced in justice's court. The-provisions-of-law-relating
9	to-sheriff's-fees-are-applicable-to-this-section-
10	(2)Thesheriffyconstable,orother-process-server
11	shally-after-effecting-service;-return-the-original-order-to
12	the-justice-of-the-peace-or-his-clerk-;"
13	Section-8:Section-25-35-886;-MCA;-is-amended-to-read:
14	#25-35-886Attorney's Attorney feesuponappealor
15	removal:(1)Ifthe-parties-are-represented-by-counsel-on
16	appeal a-defendant-appeals-a-matter-to-district-courtunder
17	the-provisions-of-25-35-803-but-does-not-prevail-in-district
18	<pre>courtythecourtmaygranttheprevailingpartyhis</pre>
19	plaintiff reasonable-attorney's attorney fees, inaddition
20	to-costs:
21	(2)Ifa-defendant-removes-a-matter-to-justice-s-court

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NBW-SECTION: -- Section-9:Court--assistants----appointment

under-the-provisions-of-25-35-605(1)-but-does-not-prevail-in

justice's-courty-the--court--may--grant--the--plaintiff--his

reasonable-attorney's attorney fees,-if-any."

or-authorization-by-county-commissionersqualifications:
Thecountycommissionersmay,-after-consultation-with-the
justices-of-the-peace-within-the-countyy-appoint-one-or-more
court-assistants-to-provide-litigants-in-civil-cases-inthe
justice'scourtyatthecounty's-expenser-with-advice-on
filing-and-litigating-claims-in-the-justice's-court:-Inthe
alternative;thecountycommissionersmay;after
consultation-with-thejusticesofthepeacewithinthe
county,-authorize-individuals-to-act-as-court-assistants-and
tochargefeesProviding-litigants-assistance-under-this
section-in-bringing-a-case-before-the-justice-s-court-in-the
county-does-not-constitute-the-practice-of-law1-and-acourt
assistantappointed-or-authorized-under-this-section-is-not
required-to-be-a-licensed-attorney:-The-county-commissioners
shall-consult-with-the-justicesofthepeacewithinthe
countyto-determine-the-qualifications-and-criteria-used-in
making-the-appointments-or-authorizations,-A-court-assistant
may-not-represent-a-client-in-court-and-mayonlyadvisea
client-in-the-areas-of-court-procedures,-drafting-pleadings,
conductingdiscoveryandpresentationofthecasein
justice 's-court.
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appointment--or--authorization--by--county--commissioners--qualifications --- The --- county --- commissioners --- may --- after consultation-with-the-justices-of-the-peace-within-the

1	countyy-appoint-one-ormorecourtassistantstoprovide
2	litigantsincivil-cases-in-the-small-claims-courty-at-the
3	county's-expense;withadviceonfilingandlitigating
4	claimsinthesmall-claims-courtIn-the-alternativey-the
5	countycommissionersmay;afterconsultationwiththe
6	justicesofthepeacewithinthecounty;authorize
7	individuals-to-act-as-court-assistants-and-tochargefees
8	Providinglitigantsassistanceunderthissectionin
9	prosecuting-a-case-before-thesmallclaimscourtinthe
10	countydoes-not-constitute-the-practice-of-lawy-and-a-court
11	assistant-appointed-or-authorized-under-this-section-isnot
12	required-to-be-a-licensed-attorneyThe-county-commissioners
13	shallconsultwiththejusticesof-the-peace-within-the
14	county-to-determine-the-qualifications-and-criteria-usedin
15	making-the-appointments-or-authorizationsA-court-assistant
16	maynotrepresenta-client-in-court-and-may-only-advise-s
17	client-in-the-areas-of-court-procedures;-drafting-pleadings;
18	conducting-discovery;-and-presentation-of-the-case-insmall
19	claims-court.
20	NEW-SECTION:Section-ll:Courtassistants
21	appointmentorauthorizationbycountycommissioners
22	qualifications:Thecountycommissionersmayafter

consultation--with--the--small--claims--court--judges-of-the

district-courts-within-the-county;-appoint-one-or-more-court

assistants-to-provide-litigants-in-civil-cases-in-the--small

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claimscourtyat-the-court's-expensey-advice-on-filing-and	
litigatingclaimsinthesmallclaimscourtInthe	
alternative7thecountycommissionersmay7after	
consultation-with-thesmallclaimscourtjudgesofthe	
districtcourts-within-the-county,-authorize-individuals-to	
act-ascourtassistantsandtochargefeesProviding	
litigantsassistanceunderthissection-in-prosecuting-a	
case-before-the-small-claims-court-in-thecountydoesnot	
constitutethepracticeoflawyandacourt-assistant	
appointed-or-authorized-under-this-section-isnotrequired	
tobealicensed-attorney;-The-county-commissioners-shall	
consult-with-the-small-claims-court-judges-ofthedistrict	
courts-within-the-county-to-determine-the-qualifications-and	
criteriaused-in-making-the-appointments-or-authorizations-	
A-court-assistant-may-not-represent-a-clientincourtand	
mayonlyadvise-a-client-in-the-areas-of-court-procedures;	
drafting-pleadings;-conducting-discovery;andpresentation	
of-the-case-in-small-claims-court:	
NEW-SECTION:Section-12:Codification-instruction:-(1)	
{Section9}is-intended-to-be-codified-as-an-integral-part	
of-Title-25y-chapter-31y-part-6y-and-the-provisions-of-Title	
257-chapter-317-part-67-apply-to-{section-9}+	
{2}{Section-10}-isintendedtobecodifiedasan	

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1
      fsection-10)-
 2
          t3}--{Section--11}--is--intended--to--be--codified-as-an
 3
      integral-part-of-Title-25,--chapter--34,--part--i,--and--the
 4
      provisions--of--Title--25,--chapter--34,--part--1,--apply-to
 5
      fsection-lll-
          NEW-SECTION---Section-13:--Severability:-If--a--part--of
 6
      {this--act}--is--invalid,-all-valid-parts-that-are-severable
 7
      from-the-invalid-part-remain-in-effect:-If-s-part--of--fthis
 8
 9
      act |-is-invalid-in-one-or-more-of-its-applications,-the-part
10
      remains--in--effect--in--all--valid--applications--that--are
      severable-from-the-invalid-applications-
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12
          NEW-SECTION: -- Section-14: -- Effective-date: -{This-act}-is
13
      effective-July-ly-1993-
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integral--part--of--Title--157--chapter--357-part-57-and-the

provisions-of--Title--25,--chapter--35,--part--5,--apply--to

-9-

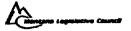
SB 0009/02

!	INTRODUCED BY TOME
ı	
ı	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY-REVISINGAND
5	repormingproceduresinsmall-claims-courts-and-justices^
5	Courts;-Providing-That-IP-A-Dependant-IN-Small-ClaimsCourt
7	Apprabstodistrictcourt-and-boses,-the-plaintipp-may-bs
3	AWARDED-ATTORNEY-PERS; PROVIDING THAT JURISDICTION IN SMALL
9	CLAIMS COURTS IS NOT LIMITED TO A COUNTY IN WHICH A
D	DEFENDANT CAN BE SERVED; PROVIDING THAT SERVICE OF PROCESS
1	IN SMALL CLAIMS COURTS IS THE SAME AS IN JUSTICES' COURTS;
2	MAKING-CONSISTENT-THE-BOLLAR-LIMITATIONS-POR-JURISDICTION-IN
3	Shalb-Claims-Courts;-Providing-That-County-Commissioners-May
4	Bither-appoint-or-authorise-nonattorney-court-assistantsto
5	ASSISTCIVILLITIGANTSINCERTAINCOURTSOPLIMITED
6	SURISBICTION; AND AMENDING SECTIONS 3-10-1004, 3-12-106,
7	25-31-601, 25-34-102, 25-35-502,-25-35-503, AND 25-35-604,
8	AND-25-35-806; MCA;-AND-PROVIDING-AN-EPPROTIVE-BATE."
9	
0	WHEREASy-the-purpose-of-(sections-l-throughll)isto
1	makeSmallClaimsCourtsandJusticesCourtsmore
2	accessible-and-functional-for-persons-without-legal-training
23	or-adequate-funds-to-hire-a-lawyer;-and
24	WHEREASy-it-is-the-begislature-s-intenttokeepSmall
25	Ciaims-Courts-functioning-well-as-a-forum-by-enhancing-their

SENATE BILL NO. 9

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2	mennerthatisnotintimidatingtoclaiments;thereby
3	reducing-the-burdenofclaimsontheothercourtsand
4	reducing-costs;-end
5	WHEREASyitis-the-intent-of-the-begislature-to-reduce
6	the-cost-deterrent-in-litigation-over-smallclaimsandto
7	minimizeinequitiesbetweenbusinessandindividual
8	litigants-by-emphasising-the-plaintiff's-perspectiverather
9	than-the-defendant's-perspective;-and
0	WHEREAS;inaddition;itistheintentofthe
1	begislature-to-provide-an-effective-means-of-assistancefor
2	litigants-in-courts-of-limited-jurisdiction-who-may-not-have
3	themeanstohire-an-attorneys-The-begislature-finds-that
4	fewer-end-fewer-attorneys-are-willing-torepresentclients
5	incourtsoflimitedjurisdiction-because-of-the-limited
6	dollar-amount-involved-or-for-other-reasonsOftencitizens
7	find-themselves-involved-in-litigation-without-benefit-of
8	counsel-in-casesinwhichtheexpenseofhiringlegal
9	counselinrelation-to-the-dollar-amount-of-the-claim-is-a
0	deterrent-to-bringing-theclaimThebegislaturefurther
1	findsthatasamatter-of-public-policyit-is-desirable
2	that-litigants-have-the-benefitofadvicefromaperson
3	knowledgeableinproceduresinthecourtsoflimited
4	jurisdictionpursuenttothelimitationssetforthin
5	sections-l-through-lil-

ability--to--handle-small-claims-quickly-and-informally-in-a



_	
3	Section 1. Section 3-10-1004, MCA, is amended to read:
4	"3-10-1004. Jurisdiction removal from district
5	court. (1) The small claims court has jurisdiction over all
6	actions for the recovery of money or specific personal
7	property when the amount claimed does not exceed \$3,000,
8	exclusive of costs7-and-the-defendant-can-beservedwithin
9	the-county-where-the-action-is-commenced.
10	(2) A district court judge may require any action filed
11	in district court to be removed to the small claims court if
12	the amount in controversy does not exceed \$3,000. The small
13	claims court shall hear any action so removed from the
14	district court."
15	Section 2. Section 3-12-106, MCA, is amended to read:
16	"3-12-106. Jurisdiction removal from district court.
17	(1) The small claims court has original jurisdiction in all
18	actions for the recovery of money or specific personal
19	property when:
20	(a) such the action arises out of a contract, express
21	or implied; and
22	(b) the amount of the claim, exclusive of costs, does
23	not exceed \$2,500;-and \$3,000
24	tc)thedefendantcanbe-served-within-the-county-or
25	counties-for-which-the-ameli-claims-court-has-been-created.

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

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1
          (2) More than one claim may be joined if all claims
      joined would separately meet the requirements for
      jurisdiction in the small claims court and the total value,
      of money claimed or property sought does not exceed $2,7500
      $3,000.
          (3) A district court judge may require any action filed
      in district court to be removed to the small claims court if
      the amount in controversy does not exceed $2,500 $3,000. The
      small claims court shall hear any action so removed from the
10
      district court."
11
          Section-3---Section-25-31-6017-MCAy-is-amended-to-read:
12
          #25-31-601:--Who--may--act--as--attorney:---Parties---in
13
      justice-s-court-may-appear-and-act-in-person-or-by-attorney;
14
      and_--As--provided--in--{section--9}, any-person;-except-the
15
      constable-by-whom-the-summons-or-jury--process--was--servedy
16
      may-act-as-attorney."
17
         Section 3. Section 25-34-102, MCA, is amended to read:
18
          "25-34-102. Jurisdiction -- joinder -- interpleader.
19
      (1) The small claims court has original jurisdiction in all
20
      actions for the recovery of money or specific personal
21
     property when such the action arises out of a contract,
22
     express or implied, and the amount of the claim, exclusive
     of costs, does not exceed $2,500 $3,000, and the defendant
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     can-be-served-within-the-county-or-counties-for-which-the
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small-claims-court-has-been-created.

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1	(2) More than one claim may be joined if all claims
2	joined would separately meet the requirements for
3	jurisdiction in the small claims court and the total value
4	of money claimed or property sought does not exceed \$2,500
5	\$3,000.
6	(3) The small claims court has jurisdiction over an
7	interpleader under 25-34-106 in which the amount claimed
8	does not exceed \$2,500 \$3,000."
9	Bection-5:Bection-25-35-582;-MCA;-is-amended-to-read:
LO	#25-35-502rJurisdictionr-(1)-Thesmallclaimscourt
11	hasjurisdiction-over-all-actions-for-the-recovery-of-money
12	or-specific-personal-property-when-the-amountclaimeddoes
13	notexceed927500 9370007exclusiveofcosts7and-the
14	defendant-can-be-served-within-the-county-wheretheaction
15	is-commenced.
16	(2)Thesmallclaimscourthas-jurisdiction-over-an
17	interpleader-under-25-35-500-inwhichtheamountclaimed
18	does-not-exceed-\$27500 \$370007*
19	Section-6:Section-25-35-503y-MCAy-is-amended-to-read:
20	#25-35-503RemovalfromdistrictcourtA-district
21	court-judge-may-require-any-action-filed-indistrictcourt
22	toberemovedtothe-small-claims-court-if-the-amount-in
23	controversy-does-not-exceed-\$27500 \$37000;-The-smallclaims
24	courtshallhearanyaction-so-removed-from-the-district

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Section 4. Section 25-35-604, MCA, is amended to read:
    *25-35-604. Service on defendant ---return. +17 The
original of the order and notice shall must be shown-to-the
defendanty-and-a-copy-of-it-along-with-a-copy-of--the--aworn
complaint-shell-be served upon the defendant by-the-sheriff;
constable, -- or -- other -- process -- server in the same manner
provided by law for service of process in civil actions
commenced in justice's court. The-provisions-of-law-relating
to-sheriff's-fees-are-applicable-to-this-section:
    12}--The--sheriffy--constabley--or--other-process-server
shally-after-effecting-servicey-return-the-original-order-to
the-justice-of-the-peace-or-his-clerk-r*
    Section-8---Section-25-35-8867-MCA7-is-amended-to-read:
    #25-35-806r--Attorney's Attorney fees--upon--appeal--or
removal: -- fl) -- If -- the-parties-are-represented-by-counsel-on
appeal a-defendant-appeals-a-matter-to-district-court--under
the-provisions-of-25-35-883-but-does-not-prevail-in-district
courty---the--court--may--grant--the--prevailing--party--his
plaintiff reasonable-attorney's attorney fees, -- in -- addition
to-costs:
    tl--If--a-defendant-removes-a-matter-to-justice-s-court
under-the-provisions-of-25-35-605/1}-but-does-not-prevail-in
justice_s-courty-the--court--may--grant--the--plaintiff--his
reasonable-attorney's attorney fees,-if-any.*
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NEW-SECTION: -- Section-9-Court--assistants----appointment

court."

or-authorization-by-county-commissionersqualifications	
Thecountycommissionersmayy-after-consultation-with-the	
justices-of-the-peace-within-the-countyy-appoint-one-or-more	
court-assistants-to-provide-litigants-in-civil-cases-inthe	
justice'scourtyatthecounty's-expense;-with-advice-on	
filing-and-litigating-claims-in-the-justice-s-courty-Inthe	
alternativeythecountycommissionersmayyafter	
consultation-with-thejusticesofthepeacewithinthe	
county;-authorize-individuals-to-act-as-court-assistants-and	
tochargefeesProviding-litigants-assistance-under-this	
section-in-bringing-a-case-before-the-justice-s-court-in-the	
county-does-not-constitute-the-practice-of-lawy-and-acourt	
assistantappointed-or-authorized-under-this-section-is-not	
required-to-be-a-licensed-attorneyThe-county-commissioners	
shall-consult-with-the-justicesofthepeacewithinthe	
countyto-determine-the-qualifications-and-criteria-used-in	
making-the-appointments-or-authorizationsA-court-assistant	
may-not-represent-a-client-in-court-and-mayonlyadvisea	
client-in-the-areas-of-court-procedures,-drafting-pleadings,	
conductingdiscovery;andpresentationofthecasein	
justice-s-court:	
NEW-SECTION:Section-18:Courtassistants	
appointmentorauthorizationbycountycommissioners	
qualifications The county commissioners may after	

consultation--with--the--justices--of--the--peace-within-the

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        countyy-appoint-one-or--more--court--assistants--to--provide
   2
        litigants--in--civil-cases-in-the-small-claims-courty-at-the
        county-s-expensey--with--advice--on--filing--and--litigating
   3
        claims--in--the--small-claims-courty-In-the-alternative;-the
        county--commissioners--mayy--after--consultation--with---the
        justices---of---the---peace--within--the--county---authorize
   7
        individuals-to-act-as-court-assistants-and-to--charge--fees-
        Providing---litigants---assistance--under--this--section--in
   8
        prosecuting-a-case-before-the--small--claims--court--in--the
        county--does-not-constitute-the-practice-of-lawy-and-a-court
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  11
        assistant-appointed-or-authorized-under-this-section-is--not
        required-to-be-a-licensed-attorney--The-county-commissioners
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  13
        shall--consult--with--the--justices--of-the-peace-within-the
  14
        county-to-determine-the-qualifications-and-criteria-used--in
  15
        making-the-appointments-or-authorizations--A-court-assistant
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        may--not--represent--a-client-in-court-and-may-only-advise-a
. 17
        citent-in-the-areas-of-court-proceduresy-drafting-pleadingsy
 18
        conducting-discoveryy-and-presentation-of-the-case-in--small
 19
        Claims-court-
 20
            NBW-BBCTION:--Section-lit--Court----assistants-----
 21
        appointment--or--authorisation--by--county--commissioners---
 22
       qualifications:--The---county---commissioners---may:---after
 23
        consultation -- with -- the -- small -- claims -- court -- judges - of - the
 24
       district-courts-within-the-countyy-appoint-one-or-more-court
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assistants-to-provide-litigants-in-civil-cases-in-the--small

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fsection-101-

claimscourtyat-the-court's-expensey-advice-on-filing-and
litigatingclaimsintheamaliclaimscourtInthe
alternativeythecountycommissionersmayyafter
consultation-with-thesmallclaimscourtjudgesofthe
districtcourts-within-the-countyy-authorize-individuals-to
act-ascourtassistantsandtochargefeesProviding
litigantsassistanceunderthissection-in-prosecuting-a
case-before-the-small-claims-court-in-thecountydoesnot
constitutethepracticeoflawyandacourt-assistant
appointed-or-authorized-under-this-section-isnotrequired
tobealicensed-attorneyThe-county-commissioners-shall
consult-with-the-small-claims-court-judges-ofthedistrict
courts-within-the-county-to-determine-the-qualifications-and
criteriaused-in-making-the-appointments-or-authorisations-
A-court-assistant-may-not-represent-a-clientincourtand
mayonlyadvise-a-client-in-the-areas-of-court-procedures;
drafting-pleadingsy-conducting-discoveryyandpresentation
of-the-case-in-small-claims-courtr
NBM-SBCTION:Section-12:Codification-instruction:-(1)
{Section9}is-intended-to-be-codified-as-an-integral-part
of-Title-257-chapter-317-part-67-and-the-provisions-of-Title
257-chapter-31y-part-67-apply-to-(section-9):
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integral--part--of--Title--25;--chapter--35;-part-5;-and-the

provisions-of--Title--25y--chapter--35y--part--5y--apply--to

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2 t3)--{Section--11}--is--intended--to--be--codified-as-an 3 integral-part-of-Title-25y--chapter--34y--part--ly--and--the provisions--of--Title--25,--chapter--34,--part--i,--apply-to facction-llj. 6 NBM-SBCTION:--Section-13:--Severability:-If--a--part--of 7 fthis--act}--is--invalidy-all-valid-parts-that-arc-severable 8 from-the-invalid-part-remain-in-effecty-if-a-part--of--{this act}-is-invalid-in-one-or-more-of-its-applications,-the-part 9 remains--in--effect--in--all--valid--applications--that--are 10 severable-from-the-invalid-applications: 11 12 NEW-SBCTION:--Section-14:--Effective-date:-{This-act}-is 13 effective-July-ly-1993--End-

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