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Bowen Greenwood  
Clerk of Supreme Court  
State of MontanaBowen Greenwood  
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STATE OF MONTANA  
Case Number: AF 11-0765

## **Biennial Report of the Montana Access to Justice Commission No. AF 11-0765**

In accordance with the Montana Supreme Court's Order of May 22, 2012, the Access to Justice Commission (Commission) submits this fourth biennial report to the Court. Since the Commission's last report, submitted in June 2019, the Commission completed a comprehensive assessment of access to justice efforts and resources, revised its strategic plan and created plans for each of its standing committees, secured funding for a new Simplified Family Law Resolution program, created a pilot program for Informal Domestic Relations Trials, and finalized automated, standardized family law forms, among many other activities. Much of the Commission's work continued to be carried out through its four standing committees: the Standing Committee on Self-Represented Litigants; the Committee on Law School Partnerships; the Committee on Outreach and Communication; and the Committee on Policy and Resources. Additionally, the Commission has created an ad hoc committee for strategic planning, as well as several working groups for specific topics, including racial justice, domestic violence, and technology coordination. This report outlines the work being done by each Committee and the Commission as a whole as directed by the Court's Order.

### **Assess the legal needs of low- and moderate-income Montanans, evaluate the extent to which those needs are going unmet, and coordinate efforts to better meet those needs.**

The Commission continued work on its comprehensive Justice For All strategic planning project, first launched in November 2018, with funding from the National Center for State Courts to provide a consultant to facilitate the project. In the first phase of the project, the Commission's Strategic Planning Committee completed an inventory assessment that evaluated access to justice efforts in Montana against 16 core components, using a series of stakeholder surveys and other data analysis. The assessment revealed several high-priority needs: simplification of court processes and rules; systematic and sustainable development of pro se and other resources; training and educational materials for court staff; and the addition of more non-legal and user members on the Commission and its committees. In response to the assessment's findings, the Commission revised its

strategic plan to include a recruitment and retention plan for more non-legal stakeholders and court users on the Commission and to prioritize the task of increasing options for remote access to the court system.

The Commission next identified the following priorities for the implementation phase of the Justice For All project: simplification of court rules and procedures; education of judicial and court staff with the development of a judicial toolkit for working with self-represented litigants; formation of a technology coordination working group; development of a statewide comprehensive civil legal justice budget for use in legislative and internal planning; and facilitated planning for each of the standing committees. With the assistance of additional grant funding from the National Center for State Courts, the Commission continued work to advance these implementation priorities, as discussed more fully below.

**Assess the ability of all court users to access the courts, and make recommendations to improve rules, statutes, and judicial processes to assure accessibility to all.**

Over the last decade, Montana courts have witnessed a growth in domestic relations cases, and a large percentage of domestic relations cases filed in Montana's district courts involve at least one self-represented litigant. Recognizing that self-represented litigants experience difficulty navigating complex rules of civil procedure and evidence, and judges and litigants alike can experience stress, frustration, and delays, the Commission conducted preliminary research into options for simplifying court rules and procedures in domestic relations cases. One promising idea that emerged was the use of informal domestic relations trials (IDRTs). IDRTs are family law trials governed by relaxed rules of civil procedure and evidence. The Commission assembled a Judicial Working Group to make a recommendation about the advisability of IDRTs in Montana.

The Commission's Judicial Working Group explored how IDRTs were operating in other states and the rules under which they are governed, and solicited input from other stakeholders, including legal aid providers, the Family Law Section of the State Bar, and domestic violence advocates. The IDRT working group then developed IDRT guidelines and recommended that the Commission petition this Court to allow district courts to pursue pilot IDRT projects in their jurisdictions. The Commission approved the working group's

proposal and guidelines and requested that the Court issue an order approving a pilot IDRT project for participating district courts. The Court approved the proposed pilot program and guidelines in August 2021. The IDRT pilot program has been included in the Simplified Family Law Resolution Project and allocated a portion of the American Rescue Plan Act funds appropriated to the Judicial Branch, as discussed below.

The Commission's Standing Committee on Self-Represented Litigants (SCSRL) also continued significant work to revise and automate standardized, plain-language forms and instructional materials for use by self-represented litigants and pro bono attorneys. The Committee finalized and published updated family law forms and is continuing to review other forms with a high volume of self-represented litigant users. Improvements to the family law forms include more plain language, a streamlined process for combining forms, and updated decrees. Committee members worked to improve its mechanism for developing, reviewing, and updating additional forms and instructions in the future, including incorporating a process for review and input from the judiciary and court staff at the beginning of forms development, and developing guidelines for forms drafting, translating, and formatting.

The committee also greatly expanded its project to create videos that provide self-represented litigants with line-by-line instructions for the most frequently used family law forms and general information about the legal process and the Court's Self Help Centers. The new videos are available on the Court's [website](#) and [YouTube channel](#).

**Provide long-range, integrated planning among legal assistance providers and other interested entities and people in Montana, and continue to facilitate networking and communication among them.**

The Commission continues to lead the State's access to justice community in long-range, integrated planning efforts, most notably through its Justice For All project discussed above. The Commission and its committees involve individuals representing a variety of access to justice stakeholders, including legal assistance providers and other interested entities. In particular, the Commission's Justice For All projects have relied heavily on the efforts of a judicial advisory committee and IDRT working group that bring together legal assistance providers, domestic violence advocates, family law attorneys, and

judges. The Commission's Justice For All project also created a technology coordination working group to leverage funding and coordinate resources among the State Bar of Montana, Montana Legal Services Association (MLSA), the Office on Aging Legal Services Developer program, and the Office of Court Administrator.

The Commission also remains a forum for information-sharing and networking among legal assistance providers and other interested entities, which was particularly helpful as the access to justice community navigated the impacts of the COVID-19 pandemic. Commission members and others frequently report back to the Commission regarding state and national conferences and share new resources and information regarding access to justice topics, such as racial justice, funding opportunities, and using technology to expand access to legal services. The Commission also maintained its strong relationship with the State Bar of Montana's Justice Initiatives Committee (JIC), holding joint meetings on a yearly basis, and ensuring JIC representation on Commission committees.

**Foster the development of a statewide integrated civil legal services delivery system, design and implement new programs to expand opportunities for access to justice, and work toward the most efficient use and delivery of resources relating to civil access to justice.**

The COVID-19 pandemic created significant additional burdens on local court systems and their users. District courts and courts of limited jurisdiction had to postpone or cancel many civil jury trials and hearings, while courts shifted to conducting many proceedings remotely and prioritized criminal jury trials, leading to an expected increase in backlogged family law cases. Additionally, the pandemic has put families under significant pressure as Montanans struggle to navigate financial hardships and to manage stress over medical concerns and worries about continued work and income. More than half of completed intakes at MLSA have involved cases impacted by COVID-19, including an increase in domestic violence survivors seeking legal services.

In response to these impacts of the COVID-19 pandemic, members of the Commission collaborated with the Office of Court Administrator earlier this year to develop a new Simplified Family Law Resolution Project to streamline the resolution of family law

cases through early mediation and simplified proceedings in judicial districts with heavy caseloads or in remote areas of the State. The Simplified Family Law Resolution Project will be funded by \$944,721 of American Rescue Plan Act funds appropriated to the Office of Court Administrator in HB 632.

There are three primary prongs of the Simplified Family Law Resolution Project. First, the Project will develop and pilot a court-connected online dispute resolution mediation project—modeled after the successful Early Resolution and Mediation Project (E-RAMP)—that will coordinate and deliver high-quality, free or reduced fee contract mediation services to parties in family law cases. These mediation services will be provided primarily through video conferencing technology. Remote proceedings can be especially beneficial to rural jurisdictions with more limited court resources and without access to mediation services. Second, the Project will partner with MLSA to provide low-income family law court users with free legal advice. This advice will focus on explaining legal rights and responsibilities, identifying legal issues, and providing assistance on how to efficiently navigate the judicial system. Finally, the Project will coordinate the planning, launch, and evaluation of the IDRT pilot project discussed above. The Commission and Office of Court Administrator are also working with the National Center for State Courts to develop a data collection and analysis plan to ensure the Project's anticipated court efficiency outcomes are effectively evaluated and reported.

Other Commission efforts to increase the efficient use and delivery of civil legal aid resources include the creation of a technology coordination working group and an SCSRL subcommittee's work to develop a referral flow chart to better coordinate screening, triage, and referrals among various entities.

**Work toward securing and maintaining adequate funding for civil access to justice, and coordinate statewide efforts to do so.**

Recognizing that an effective continuum of legal services requires adequate and sustainable funding, the Commission continued its focus on Montana's lack of legal and judicial resources to meet the civil legal needs of our citizens and to manage the growing burden on the court system. The Commission began the biennium by building on its previous legislative efforts and developed a revised legislative proposal for the 2021

session. Similar to its previous proposals, the Commission drafted a bill to generate new revenue by raising certain civil filing fees in district court and appropriating the new revenue to the Office of Court Administrator for grants to nonprofit organizations providing legal aid and mediation services. The bill was pulled from consideration, however, after the pandemic made it difficult to have a lobbying presence, and the ability to produce additional supporting data was hindered by limited staff and resources that were already stretched thin trying to support remote court services.

Instead, members of the Commission focused their efforts on securing funding through executive and legislative allocations of federal COVID-19 relief aid, including approval of CARES Act and other funding to support MLSA's pandemic-related legal services. Midway through the 2021 legislative session, members of the Commission developed a proposal for a \$944,721 appropriation of American Rescue Act Plan funds to the Office of Court Administrator to support court operations impacted by the pandemic by streamlining the resolution of family law cases through early mediation and simplified proceedings in judicial districts with heavy caseloads or in remote areas of the State. That appropriation was successfully included in House Bill 632, the legislation allocating federal COVID-19 relief aid, and will be used to fund the Simplified Family Law Resolution Project discussed above.

Additionally, the Commission assisted with other successful funding requests for Commission-supported programs, including continued funding for the Justice For All and Justice for Montanans AmeriCorps projects.

These efforts to secure and maintain adequate funding were bolstered by the ongoing work of the Commission's Outreach and Communication Committee and Policy and Resources Committee to promote a strong civil legal services delivery system. Over the past two years, the committees have worked extensively to develop, refine, and disseminate the Commission's educational and outreach materials in support of access to justice funding, as well as reviewing updates to the Commission's website and creating new presentations.

**Serve as the advisory council for the Montana Legal Services Association VISTA project.**

While MLSA's VISTA project ended in 2014, the Commission continues to play a vital role in AmeriCorps in Montana by serving as an advisor to the Justice for Montanans (JFM) AmeriCorps Project and assisting with funding requests and member recruitment. MLSA coordinates the JFM Project and partners with the Self-Help Program of the Montana Supreme Court Office of the Court Administrator, DCI's Office of Child and Family Ombudsman, DOJ's Montana Office of Consumer Protection & Victim Services, Legal Services Developer Aging Services, Montana Fair Housing, the YWCA in Missoula, and others to place 23 AmeriCorps members directly in local Montana communities.

JFM AmeriCorps members help provide and expand intake and outreach, legal information, and referral services for Montana's low to moderate income residents seeking civil legal assistance. Their work includes coordinating community education campaigns, providing access to services, assisting people with completing pro se documents, and making referrals to additional resources. This project has the dual benefit of training our next generation of community leaders on access to justice, while at the same time providing information and referrals to people in need.

**Conduct regular meetings to achieve the Commission's purposes.**

The Commission held eight public meetings during 2019 and 2020 and continues to meet quarterly. Meetings took place on the following dates:

- March 8, 2019
- June 7, 2019
- September 20, 2019 (Joint Meeting with the JIC)
- December 6, 2019
- March 6, 2020
- June 5, 2020
- September 18, 2020 (Joint Meeting with the JIC)
- December 4, 2020
- March 5, 2021
- June 4, 2021
- September 17, 2021 (Joint Meeting with the JIC)



Minutes and materials of all Commission meetings are posted on the Commission's website, <https://courts.mt.gov/Courts/boards/a2j/>.

**Establish the former Supreme Court Commission on Self-Represented Litigants as a permanent Commission committee to continue the SRL Commission's mission, including forms development for self-represented litigants.**

The Standing Committee on Self-Represented Litigants continues to be a strong and active Commission committee. In addition to its work on standardized forms and instructional videos described above, the SCSRL continues to prepare resources and provide training for clerks and the judiciary regarding the forms and other issues related to pro se litigants.

**Conclusion**

The Commission again thanks the Court for its vision in creating a Commission with an exclusive focus on improving the way in which Montana's court system responds to and addresses the legal needs of all Montanans. The Commission expresses special thanks to the Court and the Office of Court Administrator for making access to the civil justice system a priority of both the Court Help and Law Library staff. Many people have volunteered their time in the Commission's efforts to date and the Commission is grateful for their work and dedication. Finally, the Commission is grateful for staff support graciously provided by the Montana Justice Foundation. The Foundation has been instrumental in moving the Commission's work forward.

Over the past two years, the Commission has made considerable progress in assessing the State's justice system and promoting robust, statewide, integrated access to that system. The Commission respectfully submits this summary of its findings, accomplishments, and plans for working to assure access to justice for all Montanans.

Dated this 20<sup>th</sup> day of September, 2021.

For the Commission,

  
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Justice Beth Baker, Chair



Commission Members:

Ed Bartlett

Georgette Boggio

Hon. David A. Carter

Rick Cook

Hon. Stacie FourStar

Senator Terry Gauthier

Aimee Grmoljez

Hon. Leslie Halligan

Paul F. Kirgis

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