

Montana Supreme Court
Access to Justice Commission
Zoom Video Conference
September 18, 2020 • 10:00am – 12:00pm

- I. Call to Order and Introductions: Justice Baker (Tab 1)
 - a. Approval of 6/5/20 meeting minutes: Justice Baker (Tab 2)
 - b. Acknowledge Representative Kim Dudik for tenure on Commission
- II. Montana Legal Services Association update: Alison Paul – 10 minutes
 - a. CARES Act
- III. Justice Initiatives Committee: Lindsay Lorang and Lindsey Simon – 20 minutes
 - a. Probate matters in eastern Montana and issues around eligibility for pro bono and modest means services
 - b. Remote services and eLawyering – Patty Fain (Tab 3)
- IV. Pro Bono Reporting update: Patty Fain – 5 minutes
- V. ATJC Standing Committee Reports
 - a. Self-Represented Litigants: Ann Goldes-Sheahan and Nolan Harris – 10 minutes
 - b. Policy and Resources: Abigail St. Lawrence – 10 minutes (Tab 4)
 - c. Communications and Outreach: Niki Zupanic – 10 minutes
 - d. Strategic Planning: Niki Zupanic – 10 minutes
- VI. Justice for All update: Niki Zupanic – 10 minutes
- VII. Informal Domestic Relations Trial (IDRT) update: Niki Zupanic – 10 minutes (Tab 5)
- VIII. Review 2020 and 2021 Meeting Dates
 - a. December 4, 2020
 - b. March 5, 2021
 - c. June 4, 2021
 - d. September 17, 2021 (Joint Meeting with JIC)
 - e. December 3, 2021
- IX. Public Comment

Tab 1

Montana Access to Justice Commission

MEMBERS

Justice Beth Baker, Chair

Term expires: 30-Sep-2021

Montana Supreme Court Justice

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Ed Bartlett

Term expires: 30-Sep-2021

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Georgette Boggio

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Hon. David A. Carter

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ATJC Standing Committees

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| | |
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Karla Gray award remarks

Its humbling to follow in the footsteps of Justice Gray and prior recipients of this award who have done so much for the people of Montana.

Justice Gray believed equal access to justice was possible if we committed ourselves fully to achieving it.

That belief is woven into the culture of the water court.

For that reason, I accept this award on behalf of all the people at the water court. They are the ones who have earned this recognition and deserve credit for keeping Karla Gray's dream of equal justice alive.

Justice is a complicated thing to achieve.

It requires many people with a shared vision working together.

Justice is ultimately an exercise in problem solving and conflict resolution.

But real justice requires constant remembrance that behind every conflict are people.

It requires recognition that many participants in our judicial system are not there voluntarily. Their future is often at stake, but they cannot afford attorneys. They do not understand the process. They feel powerless and lost. They are fearful because they don't understand how our system will solve their problems and concerned they might not receive the same treatment as others.

Litigation is stressful, but for these people the judicial process generates extraordinary fear and anxiety.

Dealing with these emotions requires developing and managing genuine personal connections swiftly.

This is where staff at the water Court shines. They are experts at helping people.

They understand that fear can be reduced with clear information, a warm voice, a precisely answered question, and an unwavering and genuine commitment to helping people solve problems.

For that reason, I wish to thank the people I work with. They are creative, bright, and compassionate. Its an honor to work with them and they inspire me every day.

I also thank Chief Justice Mike McGrath and court administrator Beth McLaughlin. Their staunch support has been critical in making the water court better.

I also recognize those who nominated me for this award and those who decided who should receive it. Thank you. I am grateful, surprised, and humbled by your confidence, and will do everything I can to further the dream of equal justice.

I thank John Mudd and the members of his team who have organized this complex undertaking with short notice under difficult circumstances.

And finally, I thank my wife, the Hon. Rienne McElyea for her unwavering support and encouragement. She embodies the principles of fairness, kindness, and integrity that are essential to justice in its purest and most beautiful form.

Tab 2

Montana Supreme Court Access to Justice Commission

June 5, 2020

Zoom Video Conference

10:00 AM – 12:00 PM

Meeting Minutes

Commissioners Present: Justice Beth Baker, Katy Lovell, Alison Paul, Hon. John Kutzman, Daniel McLean, Ed Bartlett, Melissa Schlichting, Sen. Terry Gauthier, Hon. Leslie Halligan, Dean Paul Kirgis, and Aimee Grmoljez.

Commissioners Absent: Rep. Kimberly Dudik, Rick Cook, Georgette Boggio, Hon. Stacie Smith, Hon. David Carter, Kyle Nelson, and Melanie Reynolds.

Others Present: Niki Zupanic, Tara Veazey, Sarah McClain, Abigail St. Lawrence, Beth McLaughlin, Ann Goldes-Sheahan, Nolan Harris, Derrek Shepherd, Kelsi Steele, Patty Fain, Hon. Kaylan Minor, Carin McClain, and Krista Partridge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:02 a.m. Justice Baker asked for corrections to the meeting minutes and Dan McLean asked that “quick claim” be changed to “quit claim”. The minutes were approved as corrected without objection.

Discussion of COVID-19 Impact on Access to Justice Work

Justice Baker’s letter to Governor Bullock requesting CARES Act funding for civil legal aid was included in the meeting materials and Justice Baker asked Alison Paul to give an update on MLSA’s CARES Act grant application and on the demand for services since the beginning of the pandemic. Alison reported that MLSA had applied for a business innovation grant under the Governor’s Coronavirus Relief Fund grant program and did not receive an award. She said that MLSA has experienced a significant increase in traffic on the MontanaLawHelp website and a surge in requests for help in housing cases. She added that MLSA has seen a big increase in the number of pro bono volunteers.

Supreme Court Administrator Beth McLaughlin reported that the courts and court administrative offices have transitioned to remote work using the Judicial Video Network, Zoom, and conference calls. She added that judges have been creative in their use of technology and that coordinators at the youth and drug courts face challenges in staying in touch with participants. Justice Baker thanked Beth for the great job that the staff have done in supporting the transition to remote work. Derrek Shepherd added that Montana has adapted very quickly compared to other states and that tools like the automated forms and video explainers developed with technology grants have helped us to meet this challenge. Judge Kutzman said that Cascade County plans to use the fairgrounds for voir dire and jury selection and that only one trial per week can be held at the courthouse. Judge Halligan said that Missoula is taking a similar cautious approach with most hearings held on Zoom. Judge Minor said that remote appearance options have actually helped low income people to have better access since they may not have to take time off from work to appear in court. Beth McLaughlin added that most of the courts of limited jurisdiction did not have cameras and so

significant purchases of technology equipment, as well as bulk purchases of hand sanitizer and masks have been made using CARES Act funds.

Strategic Planning and Justice for All Grant Update

Tara Veazey directed the group to Tab 4 of the meeting materials for changes to the strategic plan, and priorities for the second round of funding recommended by the Strategic Planning Committee. Space was added to the plan to allow for the addition of milestones and metrics to be established by each standing committee, and priority strategies and activities are shown in bold font. The committee recommended that remote access to the court system should become a priority and that the Commission should consider creating a Technology Committee to lead this activity. The Strategic Planning Committee also proposed to remove the priority designation from the strategy to support innovative programs such as incubator programs and expanded pro bono opportunities for law students because that work has now been institutionalized. Dean Kirgis and Kelsi Steele agreed with this recommendation and said that good progress has been made. Alison Paul reported that MLSA will host two summer interns from the law school and thanked Dean Kirgis for supporting law school stipends for those interns. She added that the Rural Incubator Program (RIPL) will add two more Fellows this summer and that coordination of the Modest Means program with RIPL is going well. Finally, Tara said that the strategy to create a recruitment and retention plan for the Commission and committees will be prioritized and will be led by the Strategic Planning Committee. Justice Baker asked for a motion to approve the changes to the Strategic Plan as presented by Tara and outlined in the meeting materials. Alison Paul so moved and Dean Kirgis seconded. The motion was approved without objection.

Tara then described potential budget priorities for a second round of Justice for All funding. Up to \$42,000 may be available, with \$25,000 in new funding from the National Center pending and approximately \$17,000 in beta-testing and carry-over funds. The priorities to consider include: support for research into informal domestic relations trials; judicial toolkits on issues related to self-represented litigants; a webinar series on Justice for All components and emerging best practices; mini-grants of up to \$5,000 each for projects associated with any of the Justice for All components; and support for administration, overhead and staff time for the Montana Justice Foundation to administer and manage the mini-grant program. Justice Baker moved that the Commission approve the proposal for a budget framework and authorize the Strategic Planning Committee to set funding priorities. Alison Paul seconded the motion. Aimee Grmoljez said that the funds should go to local governments under the CARES Act, and Justice Baker clarified that these funds are from the National Center for State Courts and not the CARES Act. The motion was approved without objection.

Self-Represented Litigants Committee

Nolan Harris reported that the committee met on May 27, 2020, and the number of attendees, volunteers and overall engagement was very encouraging. The committee is increasing its membership and will add the rotating President of the Clerks of Court Association as a member. They are also trying to add more judges to the committee. Patty Fain created a survey to get feedback from courts and pro se litigants on the kinds of forms and resources that are most needed. Nolan said that the committee will add metrics to the Strategic Plan such as the number of forms created, and the number of downloads, page views, clicks and visits to the MontanaLawHelp and Court Self Help Forms websites. Judge Kutzman suggested that the committee should do a survey

of which judicial districts are using the standardized forms in preparation for e-filing. Nolan added that the family law forms are nearing completion and the committee is identifying areas of need for new forms. Nolan also reported that the committee is getting feedback on forms by attending as many relevant conferences as possible. Dan McLean asked if it's acceptable for him to provide phone advice clients with probate forms that he has developed. Nolan said that it would be better to direct people to the probate forms packet available on the court website. Justice Baker added that we are trying to stop the proliferation of different forms and asked Dan to work with Katy Lovell if he has suggestions on how to improve the existing forms. Sarah McClain is the new Chair of the Education and Outreach subcommittee and this group will lead the effort on two of the priority areas for the SRL Committee: development of a referral flow chart to better coordinate triage and referral for relevant stakeholders; and improvement and production of additional explainer videos for court forms with a focus on family law and housing forms. Nolan said that links to the explainer videos and instruction sheets are located on the court website along with the forms.

Policy and Resources Committee

Abby St. Lawrence report that the bill draft for civil legal aid funding is ready to go and there have been no proposed changes to the draft since the last meeting. The next step is to begin conversations with legislators. Before the pandemic, the plan had been to hold these conversations in person with appropriations committee members after the primary election. The new plan is for Justice Baker to send a letter to key decision-makers along with a copy of the bill draft and a two-page explanation. Justice Baker added that the letter will be on Commission letterhead and will be mailed out in hard-copy format. Abby noted that the letter will be sent to key leadership and committee members and not to candidates. She asked that committee members please respond to the poll for the next meeting date. The meeting will focus on new and revised assignments based on the strategic plan.


Communications and Outreach Committee

Niki Zupanic reported that the most recent meeting of the committee to discuss the strategic plan had been postponed and not yet rescheduled.

Public Comment and Next Meeting Date

Justice Baker asked for public comment. There was no public comment. Justice Baker said that the next meeting on September 18, 2020, will likely be held on Zoom and asked for feedback. The meeting was adjourned at 11:42 a.m.

Tab 3



Montana Supreme Court Statewide Pro Bono Program September 2020 Pro Bono Update

Pro Bono Reporting 2019

Annual attorney pro bono reporting down by 23% for the 2019 reporting year as compared with the 2018 reporting year data. Specifically, in-state attorney reporting decreased in for the 2019 pro bono reporting year by 17%. Decreases occurred after a 10-year consistent annual rise in annual pro bono reporting. Mandatory Interest On Attorney Trust Accounts (IOLTA) certification is down by similar percentages. Circumstances suggest COVID-19 pandemic contributed in whole or part to the decrease in submitted reports. The statewide pro bono program coordinator will proceed with analyzing the currently available data and prepare a report designed to inform pro bono-specific efforts and access to justice decision-making anticipating adjustments to reporting measurements due to decline in reporting. The report will be completed and disseminated by the end of September 2020.

Increasing Pro Bono Participation through Remote Legal Services

Spring 2020 brought an acute awareness of access to justice in the context of the COVID-19 crisis and identified specific access to justice needs caused or exacerbated by the pandemic. Reports reveal a dramatic increase in domestic violence, homelessness and debtor/creditor cases. Family law cases filed with District Courts are predicted to spike. One of the acute disparities is access to legal assistance for home-bound and rural populations. Pro bono clinics, attorney representation, and mediation professionals are adjusting to virtual platforms. This is mirrored in the practice of law generally. The State Bar of Montana Justice Initiatives Committee and its pro bono CLE subcommittee identified the lack of a cohesive, researched and Montana-specific best practices to the delivery of virtual legal services. In response, the Committee proposes to develop materials, manuals, best practices and other legal service delivery materials designed to guide the provision of remote/virtual pro bono services (as well as legal services generally) through the use of technology and innovative web-based platforms. While this assists in the immediate and on-going COVID-19 crisis, the effort will also have long-term application in the delivery of legal services to remote areas of Montana where there are few if any available legal services. The Committee has developed the draft material and curriculum index for a guide in providing legal services remotely/virtually. JIC is in the process of identifying partners and stakeholders who will assist in the development of best practices and the delivery of legal education for the index topics. The index is currently out for review and comment. We ask that you please review the Index and offer your suggestions for revisions to Patty Fain by at pfain@mt.gov no later than October 15, 2020.

A Guide to Providing Legal Services Remotely/virtually

Draft Curriculum Index

1. GENERALLY

A. Tech Platforms and Security

- Privacy, internal security, and cybersecurity
- Video platform considerations, features, and best practices
- Remote and secure communication platform considerations (channel-based messaging, etc.)
- Sufficient and safe Internet connections
- Cloud computing & remote access to cases and documents

B. eLawyering Ethical Considerations for attorneys and clients

- Ethics of lawyering remotely and risk management strategies
 - Securing client data
 - Protecting confidentiality while practicing remotely
 - Supervision by remote control
 - Continued compliance with advertising and solicitation rules
 - Maintaining diligence and client communication
 - Assessing capacity and addressing informed consent
 - Securing proper guidance to implement remote practice safeguards

C. Client Outreach, Preparation, and Communications

- Preparing a positive remote experience for clients (Client onboarding, client resource guide, client management platforms)
- Remote client interviewing
- Improving client experiences in remote settings
- Managing client expectations and communication while lawyering remotely

D. Document preparation, electronic signatures, and eFiling

- Electronic document preparation options and considerations
- Obtaining electronic signatures and notarizations
- eFiling guidance and assistance

II. Pro Bono Virtual Clinics

- A. Communicating with legal aid and pro bono organizations and programs
- B. Communicating with pro bono clients not in the same physical space: safety considerations; technology barriers; and effective communication styles
- C. Mentor/Mentee relationships in virtual settings
- D. Pro Bono Guide to remote clinics
 - Benefits and conveniences of technology-supported pro bono opportunities
 - Communicating/scripts for pro bono one-time consultations
 - Pro Bono Clinic Checklist
 - Pro Bono Clinic preparation and document review

Tab 4

JUSTICE FOR ALL

MAKING OUR COURT SYSTEM WORK FOR ALL MONTANANS

CHILDREN · SENIORS · VETERANS · PEOPLE WITH DISABILITIES · MINIMUM WAGE WORKERS · SURVIVORS OF ABUSE

194,000

Montanans struggle to make ends meet and can't afford a private attorney



Getting Montanans the tools they need to resolve their legal problems has a positive impact for all court users and helps our courts manage their caseloads. It prevents lawsuits from being filed and cases from going to court, saving Montanans money in the long-run

WHAT COULD STATE FUNDING DO?

Montanans work together to help their neighbors, but many people still have to navigate complex legal situations on their own.

By adjusting civil court filing fees for inflation, Montana can:

- ⦿ Provide court-based mediation programs for family law and landlord-tenant cases
- ⦿ Increase direct legal services by up to 40% for Montanans struggling to make ends meet
- ⦿ Expand volunteer and reduced-fee services from lawyers helping Montanans navigate complex legal issues
- ⦿ Return an economic benefit to Montana communities by securing financial stability for families, child support for domestic violence survivors, and hard-earned benefits for veterans and people with disabilities
- ⦿ Improve court efficiency for all court users

Montanans will benefit by getting the help they need to stay in their homes, support and protect their children, break free of domestic violence, receive veteran benefits, avoid consumer scams, and access help in rural areas and reservations.

Nearly 30% of completed intakes at Montana Legal Services Association have involved cases impacted by COVID-19



95% of Montana Legal Services Association cases are handled through a settlement, administrative action, or with brief advice and services



Civil legal aid creates

\$1,386,673

in annual economic benefit, including child support, healthcare, and foreclosure prevention



CIVIL LEGAL AID

The legal system can be complicated and overwhelming, especially when trying to navigate it without legal help. Getting people the legal help they need gives everyone a fair chance to be heard.

MONTANANS PROVIDING CIVIL LEGAL AID TO THEIR NEIGHBORS:



Help domestic violence survivors escape abuse



Fight consumer scams, especially on seniors



Preserve housing and improve housing conditions



Help veterans rebuild their lives

“I’ve always been a fighter, but this time I felt like the ground had gone out from under me.”

After her daughter died unexpectedly, all Jessie wanted to do was take the best care possible of her grandson, Griffen. Then she got a letter saying his Social Security payments would be cut off, meaning he would not be able to access special services for his autism. She couldn’t afford an attorney. “I’ve always been a fighter, but this time I felt like the ground had gone out from under me.”

Jessie worked with a civil legal aid attorney who specialized in cases like hers and Griffen’s benefits were restored. “You folks reached down and helped me with my biggest and most serious concern, which was protecting the interests of my grandchildren. For this, I will be eternally grateful.”



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CONTACT INFORMATION

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**LET’S FULFILL OUR NATION’S
PROMISE OF JUSTICE FOR ALL.**

JUSTICE FOR ALL

MAKING OUR COURT SYSTEM WORK FOR ALL MONTANANS

CHILDREN · SENIORS · VETERANS · PEOPLE WITH DISABILITIES · MINIMUM WAGE WORKERS · SURVIVORS OF ABUSE

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**LET’S FULFILL OUR NATION’S
PROMISE OF JUSTICE FOR ALL.**

ATJC Draft Copy

As of: September 14, 2020 (10:39AM)

LCXXXX

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act revising court administration to improve the efficiency and effectiveness of court operations; creating the Civil Justice Improvements Grant Program to be administered by the Supreme Court Administrator; increasing fees for certain filings in district court; creating an account and allocating a portion of the filing fees to the account; providing for accountability of funds; amending sections 3-1-702, 25-1-201, 25-9-506, 37-61-421, and 44-7-202, MCA; providing an effective date; and providing a termination date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Civil justice improvements account.**

(1) There is a civil justice improvements account in the state special revenue fund established in 17-2-102(1)(b)(i). The revenue in the account must be used solely to provide funding to improve the administration of civil legal matters as provided in [section 2]. Programs funded by the account are intended to improve court efficiency, reduce delays, provide legal information and assistance to persons of limited means, and help all court users save time and money by resolving their disputes more quickly.

(2) There must be paid into the account money collected pursuant to 25-1-201(5), (6), and (7), and 25-9-506(1).

(3) Money deposited in the account is subject to appropriation by the legislature and may be used only by the supreme court administrator to provide civil justice improvement grants pursuant to [section 2].

NEW SECTION. **Section 2. Civil justice improvements grant program.**

(1) There is a civil justice improvements grant program administered by the supreme court administrator.

(2) Alternative dispute resolution programs connected with a district court or court of limited jurisdiction, legal aid clinics affiliated with an accredited Montana law school that assist persons of limited means with civil legal matters, and tax-exempt organizations are eligible to receive grant funds from the program. An eligible tax-exempt organization must be a 501(c)(3) non-profit organization in operation for at least one year that ordinarily renders or finances legal services to persons of limited means in civil matters or coordinates volunteer or reduced-fee legal services to provide attorney representation to Montanans of limited means. Funds awarded from the program may be used only for the purposes set forth in this section.

(3) The supreme court administrator shall establish criteria and procedures for the distribution and accountability of money in the account. The court administrator shall award grant funds in

accordance with Title 18, chapter 4, within the amount appropriated by the legislature to programs that serve domestic violence survivors; programs that provide alternative dispute resolution for high-volume self-representation cases such as family law and landlord-tenant matters; programs that facilitate the ability of Montanans of limited means to receive volunteer or reduced-fee legal services; programs that serve persons with demographic barriers or in locations that lack access to legal services; programs in communities that serve Native American populations; programs that reach broadly across the entire state, including through technological innovations; and development of civil legal forms and instructional materials explaining court rules and processes that can be used by people representing themselves.

(4) An applicant for a grant of funds from the account must include in the grant application a detailed plan for how the applicant will use the funds for one or more of the purposes of this section and for how the applicant will collect and report data, account for the funds received, and measure progress on performance goals.

(5) Money disbursed from the account cannot be used to bring a suit against the State of Montana or other governmental entity, unless the suit is brought to enforce an individual's right to access governmental benefits or services provided under a statute or regulation, including but not limited to social security, medicare, medicaid, and housing benefits; to acquire land or buildings; to provide legal advice or representation on criminal matters; to

support lobbying, as defined by § 5-7-102(11), MCA; or to pay attorneys employed in for-profit law firms.

Section 3. Section 3-1-702 , MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) to the extent possible, provide that current and future information technology applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521;

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer the civil justice improvements grant program, as provided in [section 2];

~~(6)~~(7) administer state funding for district courts, as provided in chapter 5, part 9;

~~(7)~~(8) administer and report on the child abuse and neglect court diversion pilot project provided in 41-3-305;

~~(8)~~(9) administer the pretrial program provided for in 3-1-708;

~~(9)~~(10) administer the judicial branch personnel plan; and
~~(10)~~(11) perform other duties that the supreme court may assign. (Subsection ~~(7)~~8) terminates June 30, 2019 -- secs. 5, 7, Ch. 141, L. 2017.)"

{Internal References to 3-1-702: None.}

Section 4. Section 25-1-201 , MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, ~~\$90~~ \$150; for filing a complaint in intervention, from the intervenor, ~~\$80~~ \$150; for filing a petition for dissolution of marriage, \$170; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, ~~\$60~~ \$75;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office in all criminal and civil proceedings, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(iii) for providing copies of papers on file in the clerk's office by facsimile, e-mail, or other electronic means in all criminal and civil proceedings, 25 cents per page;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, \$53;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, \$53;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75;

(r) for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.

(2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must be deposited in the state general fund as specified by the supreme court administrator.

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final

parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1) (a).

(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714 and \$60 must be deposited in the state special revenue account established in [section 1].

(6) Of the fee for filing a complaint in intervention, \$70 must be deposited in the state special revenue account established in [section 1].

(7) Of the fee collected on appearance from each defendant or respondent, \$15 must be deposited in the state special revenue account established in [section 1].

~~(6)~~(8) The fees collected under subsections (1) (d), (1) (g), (1) (j), and (1) (r) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

~~(7)~~(9) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-7-202 and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the

fees must be deposited in the county general fund to be used for district court operations.

~~(8)~~(10) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund."
{Internal References to 25-1-201:

3-1-804 3-1-804 3-1-804 3-1-804
3-1-804 3-2-714 7-4-2516 15-1-121
15-1-121 25-10-404 25-10-405 25-10-405

25-30a-2210 27-32-104 27-32-104 44-7-202}

Section 5. Section 25-9-506 , MCA, is amended to read:

"25-9-506. Fees. (1) Except as provided for in subsection (2), a person filing a foreign judgment shall pay to the clerk of court a fee of ~~\$60~~ \$122, of which \$62 must be deposited in the state special revenue account established in [section 1].

(2) Fees for docketing, transcription, or other enforcement proceedings must be as provided for judgments of the district court.

(3) Fees collected by the clerk of district court not otherwise specially allocated must be forwarded to the department of revenue for deposit in the state general fund."

{Internal References to 25-9-506:

15-1-121}

Section 6. Section 37-61-421 , MCA, is amended to read:

"37-61-421. Attorney's or litigant's liability for excess costs. (1) An attorney or party to any court proceeding who, in the determination of the court, multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy

personally the excess costs, expenses, and attorney fees reasonably incurred because of such conduct.

(2) An attorney whose services in a court proceeding are funded by a grant awarded under [Section 2] and who is found by the court to have brought the action frivolously or vexatiously may be required by the court to satisfy personally the costs, expenses, and attorney fees reasonably incurred because of such conduct.

Section 7. Section 44-7-202 , MCA, is amended to read:

"44-7-202. Domestic violence intervention account -- administration by board of crime control. (1) There is a domestic violence intervention account in the state special revenue fund in the state treasury. There must be paid into this account the designated filing fees paid under 25-1-201~~(7)~~(9) to the clerk of the district court. The money deposited in the account must be used for services provided under 44-7-201.

(2) Funds deposited in the account may be expended by the Montana board of crime control, as provided for in 2-15-2306, to fund services and activities under and payment of administrative costs of the domestic violence intervention program provided for in 44-7-201."

{Internal References to 44-7-202:

25-1-201 44-4-310 44-7-201 44-7-201 *

44-7-203}

NEW SECTION. **Section 8. Reporting.** The supreme court administrator shall submit a report to the law and justice interim

committee on or before September 30, 2025, documenting the amount of revenue deposited in the state special revenue account established in [section 1], the amount of funds distributed pursuant to [section 1], and the programs or nonprofit organizations to which funds were distributed. The report shall include a summary of the legal services provided to persons of limited means by organizations receiving funds under [section 2], a summary of outcome measures, and information concerning the impact, if any, on court efficiencies and caseloads. The report also shall include a summary of cases, if any, in which a court has imposed sanctions under section 37-61-421(2), MCA, against an attorney whose services are funded by [Section 2].

NEW SECTION. **Section 9. {standard} Codification**

instruction. [Sections 1, 2 and 7] are intended to be codified as an integral part of Title 3, chapter 2, part 7, and the provisions of Title 3, chapter 2, part 7, apply to [sections 1, 2 and 7].

NEW SECTION. **Section 10. {standard} Effective date.** [This act] is effective July 1, 2021.

NEW SECTION. **Section 11. {standard} Termination.** [This act] terminates June 30, 2027.

- END -

Tab 5



Informal Domestic Relations Trials

States with Statewide or Pilot IDRTs

Idaho (2008)

Oregon (2013)

Alaska (2014)

Utah (2014)

Iowa (2017)



What is an Informal Domestic Relations Trial?

A SIMPLIFIED COURT PROCEDURE WITH RELAXED OR WAIVED RULES OF EVIDENCE

Core Commonalities

Both parties must
opt-in**

Either party may be
represented

Normal rules of
evidence are
waived

All evidence offered
is admitted, and the
judge determines
weight

Judges play a more
active role in
questioning parties

Established
procedures for
withdrawing from
an IDRT

Variations: Implementation

Started as Pilots

- ▶ Oregon (statewide since 2016)
- ▶ Iowa (statewide as of July 2020)

Adopted through Statewide Rule

- ▶ Alaska

Variations: Types of Cases

All Family Law

- ▶ Alaska
- ▶ Iowa
- ▶ Oregon

Limited to Certain Cases

- ▶ Idaho (custody and child support)
- ▶ Utah (custody, parenting, and support)

Other Variations

Witnesses (prohibited or limited)

Direct and cross-examination (prohibited or limited)

Procedures for removing the case from IDRT

Context for Discussion in Montana

- ▶ NCSC Justice for All grant and assessment
- ▶ Alaska presentation to judges
- ▶ Creation of IDRT Working Group to:
 - ▶ Educate and solicit input from other family law stakeholders, including but not limited to legal aid, the family law section of the bar, pro bono attorneys, domestic violence advocates, and self-help law centers
 - ▶ Make a formal recommendation regarding pursuing IDRTs in Montana

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- ▶ Hon. Dusty Deschamps, 4th Judicial District Court
 - ▶ Hon. Brenda Gilbert, 6th Judicial District Court
 - ▶ Hon. Michael McMahon, 1st Judicial District Court
 - ▶ Hon. Robert Olson, 9th Judicial District Court
 - ▶ Hon. Olivia Rieger, 7th Judicial District Court
 - ▶ Hon. Howard Recht, 21st Judicial District Court
 - ▶ Molly Rose Fehringer, Standing Master, 13th Judicial District Court
 - ▶ Hon. Kaydee Snipes Ruiz, 12th Judicial District Court
 - ▶ Representative from MLSA

Working Group

Our Plan: Gather Input

- ▶ Montana District Court Council
- ▶ Montana Judges Association
- ▶ Montana Justice Foundation
- ▶ Montana Legal Services Association (MLSA)
- ▶ Montana Supreme Court Access to Justice Commission
- ▶ Montana Supreme Court Statewide Pro Bono Program
- ▶ Montana Supreme Court: Office of the Court Administrator (OCA)
 - ▶ OCA: Judicial Education Committee
 - ▶ OCA: Court Help Program
- ▶ State Bar of Montana Justice Initiatives Committee
- ▶ Uniform District Court Rules Commission
- ▶ Montana Association of Clerks of District Court
- ▶ Montana DPHHS, Child Support Enforcement Division
- ▶ Montana Coalition Against Domestic & Sexual Violence (MCADSV)
- ▶ Montana Supreme Court
- ▶ State Bar of Montana Ethics Committee
- ▶ State Bar of Montana Family Law Section



Our Plan: Research

- ▶ Rule/order examples
- ▶ Waiver examples
- ▶ Public brochures/FAQs examples
- ▶ Conversations with and evaluations from other states
 - ▶ Number served
 - ▶ Representation status
 - ▶ Outcomes
 - ▶ Satisfaction Surveys
 - ▶ Efficiencies
 - ▶ Appeals



Questions?
Suggestions?
Input?