

Montana Supreme Court
Access to Justice Commission
Zoom Video Conference
December 4, 2020 • 10:00am – 11:30am

- I. Call to Order and Introductions: Justice Baker (Tab 1)
 - a. Approval of 9/18/20 meeting minutes: Justice Baker (Tab 2)
 - b. Introduce new Commission Member: Rep. Katie Sullivan
 - c. Acknowledge Melanie Reynolds for the Helena Area Community Foundation's 2020 Spirit of Philanthropy Award
- II. Montana Legal Services Association update: Alison Paul – 10 minutes (Suppl. Tab)
- III. ATJC Standing Committee Reports
 - a. Self-Represented Litigants: Ann Goldes-Sheahan– 10 minutes
 - b. Policy and Resources: Abigail St. Lawrence – 10 minutes
 - c. Communications and Outreach: Melanie Reynolds – 10 minutes (Tab 3)
 - d. Strategic Planning: Niki Zupanic and Tara Veazey – 10 minutes (Suppl. Tab)
- IV. Informal Domestic Relations Trial (IDRT): Niki Zupanic and Tara Veazey – 10 minutes
- V. 2020 Pro Bono Report: Patty Fain – 5 minutes (Tab 4)
- VI. New ABA initiative: The Role of ATJ Commissions in Confronting Racism: Justice Baker – 5 minutes
<https://bit.ly/ABA2020Webinars>
- VII. Review 2021 Meeting Dates
 - a. March 5, 2021
 - b. June 4, 2021
 - c. September 17, 2021 (Joint meeting with JIC)
 - d. December 3, 2021
- VIII. Public Comment

Tab 1

Montana Access to Justice Commission

MEMBERS

Justice Beth Baker, Chair Term expires: 30-Sep-2021	<i>Montana Supreme Court Justice</i>	bbaker@mt.gov 406-444-5570
Ed Bartlett Term expires: 30-Sep-2021	<i>Business/Communications Leader</i>	efbartlett@charter.net 406-431-6014
Georgette Boggio Term expires: 30-Sep-2022	<i>Representative of Native American communities</i>	gboggio@elkriverlaw.com 406-259-8611
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Tab 2

Montana Supreme Court Access to Justice Commission
September 18, 2020
Zoom Video Conference
10:00 AM – 12:00 PM
Meeting Minutes

Commissioners Present: Justice Beth Baker, Ed Bartlett, Georgette Boggio, Rep. Kimberly Dudik, Rick Cook, Hon. Stacie FourStar, Sen. Terry Gauthier, Aimee Grmoljez, Hon. Leslie Halligan, Dean Paul Kirgis, Dan McLean, Kyle Nelson, Alison Paul, Melissa Schlichting, Katy Lovell, Hon. John Kutzman, Hon. David Carter.

Commissioners Absent: Melanie Reynolds

Others Present: Katie Sullivan, Angie Wagenhals, Lindsay Lorang, Bill Bronson, Patty Fain, Kay Lynn Lee, Ann Goldes-Sheahan, Carin McClain, Niki Zupanic, Harry St. Cloud, Anna Boyes, Nolan Harris, Sarah McClain, Kaylan Minor, Charley Nuesse, Abigail St. Lawrence, Derrek Shepherd, Tara Veazey, Daisy Ward, and Krista Partridge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:02 a.m. Justice Baker asked for a motion to approve the minutes from the June meeting. Judge Halligan so moved and Alison Paul seconded the motion. The meeting minutes were approved without objection. Justice Baker then recognized Rep. Kim Dudik who is ending her service on the Commission after this meeting and thanked her for contributions. She then welcomed Katie Sullivan who will join the Commission in October, replacing Rep. Dudik. Justice Baker also recognized the Justice for Montanans AmeriCorps members in attendance and thanked them for their service. Finally, Justice Baker welcomed members of the Justice Initiatives Committee (JIC) and thanked them for participating in this joint meeting of the Commission and the JIC.

Montana Legal Services Association Update

Alison Paul reported on MLSA's COVID-19 response and on CARES Act funding received through the Court Administrator's office, Department of Commerce, and Department of Health & Human Resources. The primary focus for MLSA with CARES Act funds will be to provide advice and counsel to tenants who are facing eviction due to the economic impacts of COVID-19. This emergency funding must be spent by December 31, 2020. MLSA is contracting with Rural Incubator Fellows and other pro bono attorneys to provide Modest Means limited scope services in housing cases in a "Lawyer for a Day" program. Alison asked for input to help MLSA coordinate the program most effectively with the courts. Judge Carter and Judge Minor offered to help. Patty Fain asked if mediation was considered as an option. Alison responded that mediation was included in the plan when we thought we would have 12 months to spend down the funds, but the 4-month spending timeline didn't allow adequate time to build in the mediation component. Alison added that MLSA will also use the funds to bolster self-help resources for clients and to support legal services for clients with public benefits issues related to COVID-19.

Pro Bono Reporting Update

Patty Fain directed members to the Statewide Pro Bono Program report in the meeting packet and noted that in-state pro bono reporting for 2019 was down 17% after consistent increases over the past decade. She added that IOLTA reporting is also down, although reports are still trickling in. Patty said that the impacts of the pandemic are a likely factor in the decreased reporting, but the data is still being analyzed for trends. She said that we've seen great leadership from the courts and judges. She noted that she'd like to initiate leadership training for the Justice Initiatives Committee. Patty added that we are still struggling to get volunteers for clinics in some areas.

Justice Initiatives Committee Update

Lindsay Lorang reported that the Justice Initiatives Committee (JIC) is working on how they can best coordinate with the broader access to justice community without duplicating efforts. They are reviewing the strategic plan to bring focus to their efforts with the goal of addressing the areas of need in pro bono and ensuring that they are adjusting as the needs change over time. Justice Baker added, for anyone who doesn't know, that the JIC is a committee of the State Bar of Montana with pro bono as its primary focus.

Self-Represented Litigants Committee

Nolan Harris reported that the committee has been very active over the past year and that the Forms Subcommittee has made great progress on the family law forms packet. The dissolution decrees are the only forms that remain to be finalized. The complexity of these forms makes it particularly challenging, and the priority is to ensure that the forms are usable for the long term. He said that the guidance of the Strategic Planning Committee has been very helpful to increase engagement and membership in the SRL Committee. He added that the committee still intends to participate in as many conferences and meetings as possible to educate court personnel about the forms and to solicit input. Nolan also reported that Sarah McClain has revived the Education and Outreach Subcommittee and the group is working on a flow chart for referrals based on those used by other states and will focus on water law first. The subcommittee is also organizing and updating the resources and links on the court self-help web page. In addition, 27 different explainer videos have been developed and are being posted. Justice Baker reminded the members that this is Nolan's last meeting as he leaves to take another position in state government. She thanked Nolan for all of his hard work over the years and many others echoed her thoughts and wished Nolan well.

Remote Services and eLawyering

Patty Fain directed members to Tab 3 of the meeting materials for a draft curriculum on providing remote/virtual legal services. She pointed out that the pandemic gives us an opportunity to increase pro bono services and that in a frontier state such as Montana, remote lawyering has always been and will continue to be needed. The curriculum was developed with help from Justice Shea, Stuart Segrest, and Angie Wagenhals, and has broader applications for the practice of law in general and not just pro bono. Patty said that suggestions and input are welcome, and asked members to review the curriculum and to follow up with any comments.

Policy and Resources Committee

Abby St. Lawrence provided an update on the bill draft for civil legal aid funding and the educational effort that will begin in earnest after the November election. She said the committee will focus on building support with current and incoming legislators, allied groups, and new

stakeholder groups. They've changed their approach to outreach due to the pandemic. She pointed to the most recent bill draft at Tab 4 in the meeting materials and noted that concerns about frivolous lawsuits were addressed in the most recent draft. An updated infographic for use in education and outreach is also included in Tab 4. Abby said the committee will meet again in mid-November after the election results are final and will start the process of following up with individual legislators.

Communications and Outreach Committee

Niki Zupanic said that the committee had a very productive quarter with help from Tara Veazey and the Justice for All project. The committee now has a work plan and has set a schedule for monthly meetings going forward. The work plan includes creating a library of outreach materials to be available online, and they have developed milestones and activities for the priority items. They have also secured an interview spot on the Aging Horizons television show. The committee also helped design the Justice for All infographic in Tab 4 and Niki asked for input on which of the two versions people preferred.

Strategic Planning Committee

Niki Zupanic stated that the committee had not met since the last full commission meeting, but they continue to work on the Justice for All project and the Informal Domestic Relations Trial pilot program. The next meeting of the committee will take place in two weeks.

Justice for All Update

Niki Zupanic reported that we received an additional \$25,000 from the National Center for State Courts and that funding, along with the \$17,000 that remained from the first grant, will support work on the priority activities that were targeted to pursue if funding was available.

Informal Domestic Relations Trial Update

Niki Zupanic gave a presentation on the Informal Domestic Relations Trial (IDRT) and the slides are in Tab 5 of the meeting materials. This is the furthest along of the ideas that were identified and developed using the Justice for All grant funds. Input on the concept is being solicited from a variety of stakeholders and a working group of eight judges has been formed to study the idea. Niki summarized the status of IDRT in several states, including Idaho, Oregon, Iowa and Alaska. Although there are differences in how each state has approached IDRT, some of the common features are that both parties must opt in, either party may be represented, and the normal rules of evidence are waived. Judges in IDRT proceedings play a much more active role. As envisioned, an IDRT pilot in Montana would need to be very flexible and individual jurisdictions and judges could choose not to participate. Niki added that our working group of judges thinks that IDRT should be a very high priority. Kaylan Minor asked if there is anything similar to IDRT that could be implemented in courts of limited jurisdiction. Niki referred Kaylan to Tara Veazey who is very immersed in this research, but noted that the basic premise of IDRT should be applicable and that there may be specific examples in other states.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. She reviewed the meeting schedule through 2021, which is noted on the agenda. The meeting was adjourned at 11:40 a.m.

Tab 3

Access to justice Commission

Outreach and Communications Committee

September 29, 2020 – 10:00 AM

Meeting Notes

In attendance: Sarah McClain, Emma O’Neil, Patty Fain, Dan McLean, Katy Lovell, and Niki Zupanic

Review Progress on the Work Plan:

- 1) ATJC website revisions – Sarah McClain showed the committee the recent ATJC website updates, including the legal aid explainer video from Illinois. Committee members discussed the possibility of creating our own Montana-specific explainer video and considered adding it to the work plan. Committee members also suggested adding an MLSA video or a general legal resources page. The committee discussed adding a “get help” button near the top of the page that would link to a list of resources. Sarah agreed to share an update on more revisions at the next meeting.
- 2) Aging Horizons show – Katy Lovell and Dan McLean reported that they would be filming the show that week and it would air later this year. Katy also reported that she is working on the PowerPoint slides.
- 3) Infographic – Niki Zupanic reported that the infographic was revised since the last time the committee reviewed it to update some statistics and add in language about COVID-related legal needs. The committee suggested changing the words “gone up” to “increased” and agreed with all the other revisions.
- 4) Social media plan – Emma O’Neil agreed to circulate a draft plan to the group for discussion next meeting. Niki agreed to help Emma on this project. Emma noted that we will need more help with creating content for social media posts and Niki suggested we work with the Policy committee on content. The committee discussed creating smaller infographic-type posts for use on social media and suggested asking the Policy committee for which graphics from the larger infographic would be a good fit for that and then ask our graphic designer to create the social media graphics.

- 5) Public Relations plan – Patty Fain reported that she and Melanie have been working on the goals section of the PR plan and she will send it to the group for discussion next month.

Next Steps and Commitments:

The next meeting will be Tuesday, October 27, at 10 am via Zoom. The agenda will include updates on the PR plan, social media plan, website, and PowerPoint slides

Access to justice Commission

Outreach and Communications Committee

October 27, 2020 – 10:00 AM

Meeting Notes

In attendance: Melanie Reynolds, Sarah McClain, Emma O’Neil, Patty Fain, Georgette Boggio, Melissa Schlichting, and Niki Zupanic

Review Progress on the Work Plan:

- 1) Public Relations plan – Patty Fain and Melanie Reynolds reviewed the newly drafted Goals and Outcomes section of the PR plan. The committee agreed with the goals listed and that the goals would be useful as guideposts for discussion of other work plan items.
- 2) Social media plan – Emma O’Neil reviewed the draft social media. She asked committee members for information on any additional accounts not yet listed. She noted that the next big step will be to determine the logistics of how to create and post content. The committee discussed the advantages and disadvantages of creating new social media accounts for disseminating access to justice content. We noted that new accounts would lack followers but could still be used as a hub for distributing content to be shared on other accounts. The committee noted that few of us have the capacity to manage a new account and moderate comments, but, depending on who managed the account, it might not have the same restrictions on sharing lobbying content as MLSA and other committee members’ accounts do. Niki and Emma agreed to meet separately to work on more details in the plan.
- 3) ATJC website revisions – Sarah McClain shared that she is working on several updates for the website. She asked committee members to share banner photos and other helpful content. Emma agreed to send the link to the MLSA “Jessie” video. Committee members suggested that the website also include information about pro bono.

Next Steps and Commitments:

The next meeting will be Tuesday, November 24, at 10 am via Zoom.

Montana Access to Justice Commission
Outreach and Communication Committee
Work Plan 2020-2021

Education

Objective Statement: Increase support for improving access to justice, recognizing the value of a strong, adequately- funded civil legal services delivery system, and addressing the relationships between civil legal needs and non-legal issues

Strategy 1: Create a library of educational materials promoting access to justice programs, with up-to-date and relevant statistics and information, and develop a mechanism for regularly updating and disseminating those materials on a variety of platforms

Milestones / Activities	Committee Leaders <i>and Partners</i>	Progress / Timelines
<p><u>Milestone 1:</u> Create a brief presentation on access to justice issues that can be added to the beginning or end of any partner presentation.</p> <ul style="list-style-type: none">• Create 2 to 3 PowerPoint slides, with a brief general background on ATJC issues and where to find more information• Distill that information into easy to use talking points• Determine likely audiences and tailor additional slides to	Katy Lovell and Melanie Reynolds	Katy has begun a draft and will share at the December committee meeting

<p>those audiences (e.g., funder, legislator)</p> <ul style="list-style-type: none"> • Expand the information into other media (e.g., video) 		
<p><u>Milestone 2:</u> Provide feedback, contribute to, and launch a more functional and user-friendly ATJ website.</p> <ul style="list-style-type: none"> • Review the recent website revisions at the next committee meeting • Decide on how, when, and by whom the content on the website will be updated <ul style="list-style-type: none"> ○ Hold a committee discussion and draft a process before the end of the year 	<p>Sarah McClain and Melissa Schlichting</p>	<p>Sarah presented several website revisions to the committee and she and Kevin are continuing work on the updates. Committee members are sharing ideas for content with Sarah.</p>

Strategy 2: Develop and seek publication of news articles, opinion-editorials, and informational pieces on the importance and economic impact of legal aid, pro bono service, and access to justice

Milestones / Activities	Committee Leaders <i>and Partners</i>	Progress / Timelines
<p><u>Milestone 1:</u> Create a comprehensive and realistic communications / public relations plan with goals and target outcomes.</p> <ul style="list-style-type: none"> • Include a plan for letters to the editor and opinion pieces by impactful messengers in legislative districts <ul style="list-style-type: none"> ○ Draft letters to the editor and find authors, with input from the Policy Committee • Create a plan for increasing awareness of access to justice issues on social media <ul style="list-style-type: none"> ○ Decide on which platforms/ accounts to use (those with followers) ○ Identify who will post and how we will get them content ○ Curate existing content to share ○ Identify new content that we want to create 	<p>Patty Fain and Melanie Reynolds (PR Plan)</p> <p>Emma O’Neil and Niki Zupanic (social media)</p> <p>Katy Lovell and Dan McLean (Aging Horizons)</p> <p><i>Office of Court Administrator</i></p> <p><i>State Law Library</i></p> <p><i>Montana Justice Foundation</i></p>	<p>PR Plan:</p> <ul style="list-style-type: none"> • Patty and Melanie have developed an initial plan with goals and outcomes <p>Social Media Plan:</p> <ul style="list-style-type: none"> • Emma has developed an initial plan and it will be discussed further in December <p>Aging Horizons:</p> <ul style="list-style-type: none"> • Katy and Dan filmed an interview in September for airing in December

- | | | |
|--|--|--|
| <ul style="list-style-type: none"> • Discuss access to justice issues on at least one Aging Horizons show | | |
|--|--|--|

Strategy 3: Promote better understanding of the relationships between civil legal needs and non-legal needs		
Milestones / Activities	Committee Leaders <i>and Partners</i>	Progress / Timelines

Strategy 4: Expand upon the Court Help Program legislative audit findings to show the importance of civil legal assistance to court efficiency

Milestones / Activities	Committee Leaders <i>and Partners</i>	Progress / Timelines
	Office of Court Administrator State Law Library	

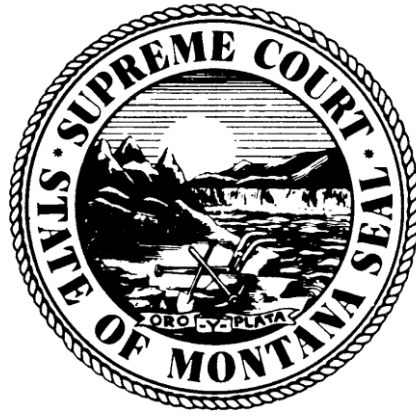
Coordination

Objective Statement: Coordinate legal assistance providers, the law school, the bar, and other entities to foster an effective and efficient statewide, integrated civil legal services delivery system that addresses the relationships between civil legal needs and non-legal issues

Strategy 3: Facilitate partnerships with and among agencies and organizations to address the relationships between civil legal needs and non-legal needs

Milestones / Activities	Committee Leaders <i>and Partners</i>	Progress / Timelines
	Policy and Resources Committee	

Tab 4



MONTANA SUPREME COURT

Annual Pro Bono Report October 2020

MONTANA SUPREME COURT
STATEWIDE PRO BONO PROGRAM

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EXECUTIVE SUMMARY

Pro Bono Pledge

Rule 6.1 of the Montana Rules of Professional Conduct for lawyers states that Montana attorneys authorized to practice law in the state should provide 50 hours of *pro bono publico*¹ service with the substantial majority of those hours devoted to provision of legal services to people of limited means. The annual Pro Bono Report is designed to capture, analyze, and report the extraordinary contributions of Montana attorneys in providing pro bono services across Montana.

2019 Pro Bono Highlights

1,424 attorneys licensed to practice law in Montana provided **118,661 hours** of pro bono service to Montanans of limited means, and organizations designed to assist people of limited means, valued at almost **\$21 million**.

Montana Response Rates and COVID-19 Impacts

Annual Pro Bono Reports were received from **2,327** attorneys licensed to practice law in Montana, with **1,874** indicating a practice primarily in **Montana** and **453** attorneys indicating an out-of-state practice. The 2019 pro bono reporting totals and percentages decreased by approximately 18 percent from the previous year. The initial reported significant outbreak of COVID-19 in Montana coincides with pro bono reporting deadlines. It is presumed the decreased reporting is in large part associated with the interruption of normal law practice protocols. The 2019 reporting rate for attorneys practicing primarily in Montana for 2019 was 60 percent.² The reporting rate for attorneys practicing primarily out-of-state for 2019 was 56 percent.³

Critical Data

The Annual Pro Bono Report is designed to assist the access to justice community and partners to:

- Identify and evaluate how Montana attorneys are meeting the legal needs of Montanans and improving operation of the courts through pro bono service.
- Assess the time attorneys spend providing pro bono services, in what categories, and the representative groups to whom those services are provided.
- Assess the financial impact of pro bono contributions by Montana attorneys.
- Identify ways to improve pro bono participation and experiences among Montana attorneys.
- Identify areas of improvement in participation in pro bono services by Montana attorneys.

¹ *Pro bono publico* is a Latin term meaning “for the public good.”

² Based on the State Bar of Montana 9/20 Membership Information Report for “Active” membership status

³ Based on State Bar of Montana 9/20 Membership Information Report for “Active” out-of-state membership status

Introduction and Reporting Summary

The Pro Bono Reporting process is managed jointly by the State Bar of Montana and the Montana Supreme Court Office of the Court Administrator through its Statewide Pro Bono Coordinator. The Statewide Pro Bono Coordinator was responsible for compiling and analyzing reporting data. This Report summarizes the results of pro bono hours for each attorney since the last reporting period. Pro Bono Reporting is voluntary. Lawyers are asked to report hours contributed at a substantially reduced rate or without expectation of fee. Reports are submitted through an online reporting mechanism.

This report includes information for **2,327 attorneys**, including **1,874 in-state** lawyers and **453 out-of-state** attorneys, received by September 30, 2020. This report includes data received from attorneys with a status other than active.

1,424 in-state attorneys reported pro bono hours in at least one pro bono category in 2019.⁴ In addition, **43 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,371** attorneys reporting Montana pro bono hours provided **66,852** hours of pro bono services *without expectation of fee* for individuals/families of limited means or organizations designed to assist people of limited means.
- **540** attorneys reporting Montana pro bono hours provided **19,439** hours of pro bono service *at a substantially reduced fee* to people/families of limited means or organizations designed to assist people of limited means.
- **616** attorneys reporting pro bono hours provided **23,068** hours of *free* services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **164** attorneys reporting pro bono hours provided **9,302** hours of *reduced fee* services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to reported pro bono hours, **624** in-state attorneys reported **19,257** hours participating in volunteer activities for improving the law, legal system or legal profession.

⁴ Most attorneys reported service in multiple categories.

2019 Pro Bono Hours Recapitulation

CATEGORY	Hours	Category	Total
Without expectation of fees to/for persons of limited means or charitable, religious, etc. serving people of limited means	66,852		
Free to charitable, religious, etc. in furtherance of their purposes	<u>23,068</u>		
Total Free		89,920	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	19,439		
Reduced to charitable, religious, etc. for furtherance of their purposes	<u>9,302</u>		
Total Reduced Fee		<u>28,741</u>	
TOTAL PRO BONO HOURS			118,661

Analysis of Reported Pro Bono Publico Service Value

(Does not include Volunteer Activities for improving the law, legal system, legal profession)

Free Services	89,920 hours x \$200/hr ⁵	\$17,984,000.00
Reduced fee services	28,741 hours x \$100/hr ⁶	<u>\$ 2,874,100.00</u>
TOTAL		\$20,858,100.00

⁵ Hourly rate based on estimated median hourly rate of responders to the 2017 Montana State Bar Membership Survey

⁶ Reduced rate services calculated at one-half the average hourly rate

GENERAL CHARACTERISTICS AND EXPERIENCES OF REPORTING ATTORNEYS

This section utilizes the pro bono reporting to present a general overview of practice types and experiences of Montana lawyers. Because of the substantial in-state attorney reporting volume, this data provides a general descriptive measure of the overall Montana attorney population. Firm size evaluations are based on in-state reporting attorneys.

Firm Size

- 29 percent are **solo practitioners** and 89 percent reported hours in at least one category.
- 26 percent work in **government/public interest** employment and 47 percent reported hours in at least one category.⁷
- 15 percent are in **3-5 attorney** firms and 84 percent reported hours in at least one category.
- 8 percent are in a **2-attorney firm** and 86 percent reported hours in at least one category.
- 7 percent are in **6-10 attorney** firms and 80 percent reported hours in at least one category.
- 14 percent are in firms larger than 10 attorneys and collectively 82 percent reported pro bono hours in at least one category.

Years in Practice

Ninety-four percent of attorneys practicing in-state provided a response to the number of years in practice. The **average years** of practice for reporting attorneys is **21.69**, and the **median** years in practice is **20**.

Pro Bono Experience

Approximately 91 percent of attorneys providing pro bono service rated their pro bono experience and **72 percent** of responses indicated the pro bono experience **positive** and **27 percent** indicated **neutral**. **One percent** of attorneys indicated a **negative experience**.

BENEFICIARIES OF PRO BONO SERVICE

Pro bono reporting includes a series of questions regarding to whom pro bono service was provided and distinguishes between services without the expectation of fee and substantially reduced fee.

Without Expectation of Fee

Among lawyers who reported pro bono in any category, **1,374** (72 percent) provided services **without the expectation of fee** to people of limited means or organizations designed to assist people of limited means. **Table T.1** represents how those reported free pro bono hours were provided.

⁷ 13% state government, 8% county/city government, 2% federal government and 2% other government/public interest

Table T.1 – Pro Bono Hours - Without Expectation of Fee to People of Limited Means

CATEGORY	Attorney Number	Total Hours
Individuals referred by MLSA or one of its programs	198	4,151
Individuals referred by organized local or state pro bono program	112	2,059
Individuals through a court-based program	64	2,059
Individuals/families self-referred/outside organized pro bono program	1,049	40,240
Charitable organizations that assist people of limited means	218	4,876
Religious organizations that assist people of limited means	113	1,630
Community organizations that assist people with limited means	152	3,321
Civic organizations that assist people of limited means	66	1,427
Governmental organizations that assist people of limited means	49	1,132
Educational Organizations that assist people of limited means	109	2,142
Organizations seeking to secure/protect civil or public rights and/or liberties	99	<u>3,637</u>
TOTAL		66,852

Improving the Law or Legal System

691 reporting lawyers provided 20,939 hours participating in volunteer activities for improving the law, legal system or legal profession.

Substantially Reduced Fee

Among lawyers who provided pro bono services in any category, 540 lawyers provided 19,439 hours of services at a substantially reduced fee to people of limited means or organizations designed to assist people of limited means. Table T.2 represents to whom the reported substantially reduced fee hours were provided.

Table T.2 – Substantially Reduced Fee – Limited Means

CATEGORY	Attorney Number	Total Hours
Referred by MLSA or one of its programs	18	1,029
Referred by organized local or state pro bono program	15	685
A court-based program	13	450
Individuals/families of limited means outside organized pro bono	399	13,149
Charitable organizations that assist people of limited means	35	668
Religious organizations that assist people of limited means	11	95
Community organizations that assist people with limited means	23	645
Civic organizations designed to assist people of limited means	7	68
Governmental organizations that assist people of limited means	19	2,001 ⁸
Educational Organizations that assist people of limited means	9	383
Organizations to secure/protect civil/public rights/ Liberties	11	281
TOTAL		19,439

Services to Charitable, Religious, Civic, Community, Governmental, or Educational Organizations.

Among reporting lawyers who provided pro bono services in any category, **616** provided **23,068 hours of free legal services**, and **164** provided **9,302 hours of substantially reduced fee** service to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes, where payment of fees would greatly deplete their economic resources.

Pro Bono by legal type

Family law continues to lead the type of individual pro bono services performed at **35 percent**. Non-profit legal work has remained the second most common category for 10 successive years, but is now

⁸ This year's analytics allows filtering out of entries that plainly do not meet the criteria of pro bono service, such as salaried work performed for government entities, resulting in a 90 percent reduction of hours reported in this category.

tied with Estate Planning at 18% and criminal law moved to the number five spot. Landlord/Tenant continues to increase in percentage. **Table T.3** below provides percentages in all categories.

Table T.3 – Pro Bono Service by Category

CATEGORY	Percentage	CATEGORY	Percentage
Family Law	35%	Domestic violence	7%
Non-profit	18%	ADR-All types	6%
Estate planning	18%	Civil rights	6%
Landlord/Tenant	16%	Youth In Need of Care	6%
Criminal law	16%	Conservatorship	5%
Business	13%	Adoption	5%
Real estate (incl. foreclosure)	13%	Disability Rights	4%
Employment/Labor	12%	Self-Help support	4%
Probate	12%	Tax	4%
Guardianship	10%	Bankruptcy	3%
Consumer law	9%	Indian Law	3%
Elder law	9%	Social Security	3%
Insurance	8%	Military/veterans	3%
All Other Categories	8%	Health Law	3%
Education	8%	Human Rights	2%
End-of-life planning	7%	Immigration	1%
		Pro Bono Admin.	1%

No Pro Bono

The Pro Bono Reporting Form allowed attorneys to indicate no reportable pro bono hours and offered options to indicate reasons for no pro bono hours. The allocation of percentages across no pro bono service are illustrated in **Table T.4**.

Table T.4 – No Pro Bono Service

REASONS	Percent
Do not have time to do pro bono	30%
Other reasons	23%
Employment/employer prohibits pro bono	13%
No reason	12%
No opportunity given to me to provide pro bono	11%
Work outside the legal profession at this time	10%
Cannot afford to do pro bono	8%
Lack the necessary skills and training	7%
Only recently admitted to the practice of law	6%
No longer practice law	4%
Specific rule/regulation prohibits participation	4%
Unemployed	3%
Do not believe pro bono is my professional responsibility	2%

Limited Scope Representation⁹

Twenty-five percent of attorneys reporting pro bono hours indicated services provided involved limited scope representation, at four percent increase since the last reporting period.

Improving Pro Bono Participation

Attorneys were asked what could be done to improve the ability to do pro bono work. Table T.5 below illustrates response percentages.

Generally, responses that did not offer a viable opportunity to improve ability to do pro bono work (winning the lottery, or more hours in a day) were included in the “other” category.

⁹ In limited scope representation, a lawyer assists a client with a specific task or tasks, including legal advice, document preparation or review, and limited court appearance.

Table T.5 – How to Improve Pro Bono Participation

REASONS	Percent
Additional Training/CLE	34%
Opportunities for finite hour contributions (e.g. legal clinic, limited task representation)	29%
Referral from an organized program	25%
Experienced attorney mentor	23%
Administrative/staff support for pro bono cases	22%
Co-counsel or assistance from a paralegal or law student	22%
Choose a case from a list with details	19%
Thorough screening of cases - financial and merit	14%
Opportunities in my area of expertise	14%
Other	9%
Expanded opportunities in my geographic location	9%
Accommodations from employer or change in department policies	9%
Use of office equipment or space	7%

Supplemental Tab

MONTANA EVICTION INTERVENTION PROJECT

Project Update November 10, 2020

As the statewide civil legal aid provider in Montana, Montana Legal Services Association (MLSA) is uniquely situated to address housing insecurity for renters during the COVID-19 pandemic. Safe housing is vital to protect families and vulnerable individuals during the COVID-19 pandemic, and both the federal and state government have established protections for tenants through December of 2020. However, many tenants are not aware of these protections and are not able to effectively represent themselves in court if their landlord tries to evict them due to the complicated nature of these guidelines. With support from the Montana Department of Commerce, MLSA developed the Montana Eviction Intervention Project (MEIP) to provide free representation to tenants in eviction proceedings across the state.

How it was developed:

MLSA contacted all 64 Justices of the Peace for feedback for the proposed project. Of that number, 19 responded, and MLSA coordinating staff spoke with Justices ranging from Billings to Winnett. This outreach influenced the process of the project and also captured the unique needs of each county. MLSA used its housing staff attorney and existing pro bono volunteers to develop a cadre of experienced MEIP attorneys. Once those attorneys agreed to join the project, MLSA provided an hour long training and a library of guiding documents and templates for MEIP attorneys to reference. MLSA executed a contract with each non-MLSA MEIP attorney.. In addition, over 250 community partners were contacted for coordination and referral purposes.

How it works:

- Any tenant who is served with a summons and complaint in an eviction proceeding will receive information about MEIP and can contact MLSA to schedule an appointment with an attorney. Each court decides how best to share this information.
- The appointed attorney will meet with the tenant before the hearing and will also represent the tenant at the scheduled hearing.
- MLSA is partnering with the private bar to use private attorneys reimbursed by MLSA at a modest means rate.
- MLSA will cover filing and copy fees up to \$100 per case.

Early Successes:

From its start on 10/13/2020, through 11/6/2020 MEIP has received 59 requests for assistance, and placed 56 cases with attorneys, resulting in 132 people helped. (Cases not placed were not eligible due to the type of action.) These cases came to MLSA through direct referrals from the courts as well as referrals from community agencies. Some tenants entered the project with fast approaching court deadlines, requiring MLSA staff to quickly process the case and find counsel. Seven of those helped were veterans and Nine were Native American clients. We are gathering good stories to show the value of this work. Here is an early success:

A tenant with terminal illness was facing eviction even though she was paying rent. An MEIP attorney worked with the tenant and the tenant's hospital caseworker to demonstrate and document the seriousness of her health concerns. While the eviction has not been fully prevented, the attorney successfully continued the tenant's hearing, giving the tenant more time to find other, safe housing options.

COVID-19 Civil Legal Assistance to Montanans
Montana Legal Services Association
Midterm Report: Through October 31, 2020
Total Funding: \$180,000
Period of Performance: August 17, 2020 – December 31, 2020

MLSA has been utilizing the OCA COVID-19 Funding for legal services to Montanans who have justice issues related to the COVID-19 pandemic and accompanying economic downturn. These additional services are helping meet the increased access to justice needs of Montanans who cannot afford a private attorney. Under this Project, MLSA has expanded its available services to meet the COVID-related legal needs of low and moderate income Montana residents. Specifically:

- MLSA has increased its available intake staff by 1.5, through increasing an existing part-time intake staff member to full-time and hiring a temporary intake worker. These intake specialists process clients for eligibility and provide referrals and self-help assistance. Since August 17, 2020, our Intake Specialists have completed 218 new COVID-19 related intakes with OCA COVID-19 Funding.
- MLSA is using the funds for a new public benefits attorney and legal assistant that were hired to address the increase in public benefit need for the newly poor. With COVID-19, Montana has seen a large increase in both people applying for benefits such as TANF, Food Stamps, Social Security and Medicaid/Medicare, and more people newly eligible for these benefits due to the pandemic. Since August 17, 2020, our Public Benefits Staff Attorney and Legal Assistant have handled 38 cases with OCA COVID-19 Funding, helping 78 clients and their family members. MLSA also received additional funding from a private foundation to support this work for 2021.
- MLSA has used the funding to increase its community outreach and virtual presence in Montana communities in need. MLSA staff members have done outreach and community education around the legal issues raised by COVID-19 and available remedies. As of October 31, 2020, MLSA staff members have attended 22 task force meetings, called 21 community partners with an overview of services, hosted three events, trained 54 community partner staff members, sent 300 brochures, researched and posted 24 self-help articles on MontanaLawHelp.org, and published two articles in community partner newsletters. MontanaLawHelp has seen a 60% increase in usage since the pandemic began.
- MLSA is using another piece of the funding to pay the private attorneys participating in the RIPL¹ program a modest means rate to provide legal advice and services to Montanans with COVID-19 related legal issues, and incomes under 250% of the federal poverty level. These attorneys are helping meet the immediate surge in need for legal assistance, and support Montana small businesses willing to provide legal services at a more reasonable fixed rate, without MLSA hiring additional short term staff. Since August 17, 2020, the contracted attorneys have handled 79 cases with OCA COVID-19 Funding, committing approximately 243 hours.

¹ RIPL stands for the Rural Incubator Project for Lawyers, a collaborative project of MLSA, the Montana Justice Foundation, the University of Montana Alexander Blewett III School of Law, and the Supreme Court Access to Justice Commission and Court Administrator's office.

This additional funding and programming has been essential to helping MLSA respond to the increased legal needs of those affected by COVID-19. This project, along with the Montana Eviction Intervention Project funded with CARES Act money through Montana Housing at the Department of Commerce, provides a lifeline for people in need who cannot afford an attorney.



AmeriCorps

JUSTICE FOR MONTANANS AMERICORPS

Empowering Low Income Montanans

PROJECT SUCCESSES. Since 2009, the Justice for Montanans (JFM) AmeriCorps program has been the lynchpin in securing equal access to justice for Montanans statewide. With 23 members serving at seven partner agencies throughout Montana, JFM members are able to serve as one-on-one navigators, helping low income Montanans access civil legal information, fill out legal forms, and apply for legal aid.

- In 2020, our 20 member team reached 37,654 individuals with an investment of \$268,500 in federal funds during a global pandemic – just \$7 per person served.
- From 2017 to 2019, JFM members helped 77,908 people: 78% felt more prepared to resolve their civil legal issues; 86% gained knowledge of the legal system; and 86% agreed that JFM members helped them understand their legal rights and what they could do.
- JFM members helped people like “Carol,” who contacted MLSA for help after she found herself facing an unlawful eviction. A JFM member quickly conducted an intake interview and set Carol up with an appointment to talk to an attorney. With the attorney’s help, Carol was able to get the eviction order dismissed and removed from her record, meaning she no longer had to worry that landlords would reject her rental application because of a wrongful eviction.

PROJECT NEED. More than 182,000 Montanans are eligible for free civil legal aid, yet 9 out of 10 who have a civil legal problem have not received assistance. Unfortunately, the COVID-19 pandemic has meant that more Montanans than ever are seeking assistance with a range of basic needs – such as illegal evictions, unemployment benefit delays, unfairly denied food benefits for hungry families, groundless restrictions to Medicare and Medicaid, and domestic violence.

From March 13 to September 1, 2020, 49% of MLSA’s completed intakes involved issues that had been impacted by COVID-19

Research suggests that non-lawyer advocates like JFM AmeriCorps members can help address this need, providing services that can be as good as those provided by attorneys and that are certainly better than navigating our complex justice system alone. Working directly with low income Montanans, JFM members can help individuals:

- (1) Learn what to do or not do to solve a legal problem;
- (2) Take action to resolve a legal problem; and
- (3) Obtain access to the justice system and the intended benefit of our laws.

WHAT EXACTLY DO JFM MEMBERS DO, ANYWAY? JFM members serve with seven partner agencies located in Billings, Bozeman, Butte, Helena, Great Falls, Missoula, and Kalispell:

- **Montana Legal Services Assn. (MLSA):** Eight members focus on providing firmwide intake and outreach support, with specific focus on Tribal Law, Pro Bono support, holistic legal service Navigation, Housing Law, and JFM Team Leader support.
- **Court Self Help Program:** Seven JFM members in the Self-Help Law Centers assist self-represented litigants and other people find legal information, forms, and other resources.



AmeriCorps

- **Office of Consumer Protection and Victim Services:** Three members help prevent fraud and educate Montana consumers, businesses, and victims of crime.
- **The Office of the Child and Family Ombudsman:** One member responds to requests of citizens who have concerns about children involved in the child protection system or in need of protections.
- **Legal Services Developer Program, Aging Services:** Two members serve elder Montanans at pro-bono legal clinics, conduct intakes, and assist those living with dementia and their caregivers.
- **Montana Fair Housing:** One member works to ensure all housing is available on a non-discriminatory basis by obtaining client intake information, conducting research, and entering data.
- **YWCA Missoula:** One member is responsible for the case management of the YWCA's Emergency, Transitional, and Rapid Re-Housing Programs for homeless individuals and families.

"They helped me move forward with my landlord for failing to remedy an emergency repair in an appropriate amount of time. Knowing my rights also helped ensure that she returned my full rental deposit when I moved out."

-A grateful client

WHAT WOULD HAPPEN WITHOUT FUNDING? The JFM Project has applied for competitive continuation funding to secure equal access to justice for Montanans. If funding were not continued, all partners in the JFM Project would face a substantial cut back to critical services and vulnerable Montanans will "do without" justice:

- Self-Help Law Centers would need to cut back from seven to four Centers, serving only Kalispell, Missoula, and Billings.
- The loss of JFM Members at MLSA would equate to as many as 2,800 Montanans going without legal help each year, because JFM Members act as the intake gateway for people to connect with MLSA legal aid. MLSA does not have alternative resources to hire new intake staff.
- Another 900 Montanans would not be placed with volunteer pro bono attorneys per year without JFM Members who place clients with pro bono attorneys at MLSA.
- Outreach to nearly 5,000 people per year would not occur without JFM Members at all partner organizations conducting community outreach and building the capacity of their organizations.

WHAT CAN I DO TO HELP?

We need you to be an ambassador for our program! The more people know what good work we're doing, the better. When you speak with people or post on social media, bring up our program and talk about what excites you about our work. A good way to start this conversation would be – "Have you heard about the Justice for Montanans AmeriCorps program? I love JFM because . . ." Use any of the above statistics of goodness to fuel your conversations!

For information contact: Mēghan F. Scott, AmeriCorps Project Director 406-442-9830 x143, mscott@mtlsa.org or Alison Paul, Executive Director of MLSA 406-442-9830 x115, apaul@mtlsa.org

**Justice For All Initiative
Implementation Projects Letter of Intent**

INTRODUCTION

The Montana Justice For All Project is a collaborative effort of the Montana access to justice community, administered by the Montana Justice Foundation, led by the Montana Supreme Court Access to Justice Commission, and supported by a diverse and committed contingent of access to justice stakeholders. With the initial Justice For All assessment and strategic planning grant, the Montana Justice for All Project conducted a comprehensive inventory assessment of access to justice efforts in Montana, adopted a revised strategic plan, and identified priority projects for further implementation.

We are now requesting \$25,000 to support our work to implement two projects identified during that process: 1) move forward with the study and potential adoption of Informal Domestic Relations Trials (IDRTs) statewide and 2) create comprehensive judicial education toolkits on one or more topics related to working with self-represented litigants (SRLs).

INFORMAL DOMESTIC RELATIONS TRIALS

As a part of the JFA assessment and planning process, the ATJ Commission recommended preliminary research into options for simplifying court rules and procedures to better accommodate the reality of a system too often overwhelmed by- and overwhelming to- self-represented litigants. To inform that research, the ATJ Commission assembled an ad hoc judicial advisory committee to provide input. After considering several options for simplification, the committee expressed an early interest in learning more about informal domestic relation trials (IDRTs).

The ATJ Commission held several committee meetings, a presentation about Alaska's experience with IDRTs, and individual interviews with judges. There was sufficient interest from those judges to convince the ATJ Commission to assemble an IDRT working group to provide further input and develop a recommendation regarding whether to pursue IDRTs in Montana. The IDRT working group has specifically been asked 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 to the Supreme Court of Montana and/or the Uniform District Court Rules Commission, as necessary and depending on the exact nature of the recommendation.

Eight district court judges volunteered to serve on the IDRT working group. They represent a diversity of experience and a diversity of jurisdictions. We have also asked a representative of Montana Legal Service Association to serve on the group and are likely to invite others as we continue to seek additional input.

The IDRT working group is beginning its work by soliciting input from other stakeholders, including the Montana Judges Association, legal aid, the family law section of the bar, pro bono attorneys, domestic violence advocates, and self-help law centers.¹ Stakeholder input will be invaluable as the working group develops a formal recommendation in Montana.

Initial stakeholder input has been exceedingly positive, with broad support from additional judges and attorneys. A handful of judges have even volunteered to serve as part of any potential pilot project. The concerns expressed have generally focused on the need for judges to retain flexibility and the ability to opt-out of IDRTs at their discretion, which the working group is working to ensure in its final recommendation.

The IDRT working group anticipates making a formal recommendation to the ATJ Commission, the Supreme Court of Montana, and/or the Uniform District Court Rules Commission by March 2021. Depending on the nature of that recommendation (e.g., a statewide rule or a pilot project in one or more judicial districts), the working group, ATJ Commission, and staff will begin the next phase of petitioning for necessary rule changes; creating educational tools for judges, clerks, and key stakeholder groups; and developing forms and educational materials for litigants.

Funding from this proposal will allow us to continue our contract with consultant Tara Veazey, and support MJF staff time, to complete the work above to adopt and implement an IDRT proposal through statewide rulemaking or local pilot project court order, should the working group make that recommendation.

JUDICIAL EDUCATION TOOLKITS

As part of the JFA assessment and planning process in Montana, the ATJ Commission recommended reviewing the 2007 Montana bench guide developed in partnership with the Self-Represented Litigation Network (“Handling Cases Involving Self-Represented Litigants”) and consider updates in both content and format to assist Montana judges in working with the growing number of SRLs appearing before them. As with the work on IDRTs, the ATJ Commission assembled an ad hoc judicial advisory committee to inform any potential updates.

In the meetings of the committee and during supplemental one-on-one interviews, judges overwhelmingly recommended that any effort to enhance judicial education and resources focus on converting useful information in the bench guide and other sources into formats more accessible and useful to busy judges. As a result of this input and informed by the National Center for State Courts and SRLN judicial education modules, the ATJ Commission has begun

¹ The current IDRT working group workplan is attached.

what will be a staggered update to the original bench guide, with individual topics pursued as resources and capacity allow.

Funding from this proposal will allow us to contract with a lead editor and project manager to engage Montana experts and create comprehensive toolkits for one or more of the following prioritized topics:

- Effective hearings with SRLs, including setting the stage and expectations²;
- Judicial ethics and cases with SRLs;
- Evidentiary issues and cases with SRLs;
- Tools and approaches for improving compliance;
- Options for effective SRL case management;
- Understanding SRLs, including:
 - demographics and barriers;
 - how SRLs experience the legal system;
- Resources available for SRLs;
- Working with SRLs with limited English proficiency; and
- Working with SRLs with disabilities.

For each topic covered, a package of materials will be developed that may include:

- A short primer on the topic that could be included in a larger manual;
- Relevant tools for that topic, including guiding scripts, questions, bench cards, or checklists;
- Relevant resources for judges to use directly with SRLs (e.g. introductory videos to be played before hearings);
- A model curriculum on the topic, including a slide deck and presenters' guide;
- A webinar and guided discussion covering the topic;
- A video of the executed webinar, available online for future viewing; and
- A request to the appropriate judicial education committee and sponsors of other large judicial convenings to include the training at upcoming conferences.

Depending on the resources available to produce the updated materials, topics will be prioritized, tackled individually, and added to over time. The largest anticipated barrier to completing this project will be the ongoing maintenance, updating, and additions of new modules after JFA funding is no longer available. We will seek to mitigate this barrier by finding an entity within the ATJ community (e.g., an existing ATJ Commission committee) to conduct annual reviews of the toolkits.

² Work on this toolkit module has already been started.