

**Montana Supreme Court  
Access to Justice Commission  
Large Conference Room, Office of the Court Administrator  
301 S. Park, Third Floor, Helena, MT  
March 6, 2020 ~ 10:00am -12:00pm**

**Agenda**

- I. Call to Order and Introductions: Justice Baker (Tab 1)
  - a. Approval of 9/20/19 meeting minutes: Justice Baker (Tab 2)
  - b. Approval of 12/6/19 meeting minutes: Justice Baker (Tab 2)
- II. Early Resolution and Mediation Project (E-RAMP) update: Patty Fain – 10 minutes (Tab 3)\*
- III. ATJC Standing Committee Reports
  - a. Strategic Planning and Justice For All Grant update: Tara Veazey – 20 minutes
  - b. Self-Represented Litigants: Ann Goldes-Sheahan and Nolan Harris – 10 minutes
  - c. Policy and Resources: Abigail St. Lawrence – 10 minutes (Tab 4)
  - d. Communications and Outreach: Katy Lovell – 5 minutes (Tab 5)
- IV. Montana Legal Services Association update: Alison Paul – 10 minutes
- V. Law Library update: Sarah McClain – 5 minutes
  - a. Access to Justice Commission website update (Tab 6)
  - b. Law Day 2020
- VI. Yellowstone County DV Exploratory Project: Judge Carter – 10 minutes (Tab 7)
- VII. Review 2020 Meeting Dates
  - a. June 5, 2020
  - b. September 18, 2020 (Joint Meeting with JIC)
  - c. December 4, 2020
- VIII. Public Comment

*\* E-RAMP materials, under Tab 3, will be sent out in a subsequent email ahead of the meeting*

Tab 1

# Montana Access to Justice Commission

## MEMBERS

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**Justice Beth Baker, Chair**

Term expires: 30-Sep-2021

*Montana Supreme Court Justice*

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**Ed Bartlett**

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**Georgette Boggio**

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**Rep. Kim Dudik**

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**Hon. John Kutzman**

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# ATJC Standing Committees

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## LAW SCHOOL PARTNERSHIPS

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## POLICY AND RESOURCES

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## SELF-REPRESENTED LITIGANTS

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## STRATEGIC PLANNING

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# Tab 2



**Montana Supreme Court Access to Justice Commission**  
**September 20, 2019**  
**Large Conference Room, Office of the Court Administrator**  
**301 S. Park, Third Floor, Helena, MT**  
**10:00 AM – 12:00 PM**  
**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Rep. Kim Dudik (phone), Alison Paul, Hon. David Carter (phone), Hon. Leslie Halligan (phone), Katy Lovell, Dean Paul Kirgis (phone), Rick Cook (phone), Melissa Schlichting (phone), Dan McLean, and Hon. Stacie Smith (phone).

**Commissioners Absent:** Ed Bartlett, Georgette Boggio, Kyle Nelson, Sen. Terry Gauthier, Aimee Grmoljez, Hon. John Kutzman, and Melanie Reynolds.

**Others Present:** Justice James Shea, Stuart Segrest, Patrick Armstrong, Brian Coplin, Ann Goldes-Sheahan, Nolan Harris, Carin McClain, Krista Partridge, Angie Wagenhals, Mēghan Scott, Tara Veazey (phone), Patty Fain (phone), Sarah McClain, Abigail St. Lawrence, Hon. Kaylan Minor, and Niki Zupanic.

**Call to Order & Introductions**

Justice Baker called the meeting to order at 10:03 a.m. A quorum of Commissioners was not present at the beginning of the meeting, so the approval of minutes was postponed until later in the meeting.

**MLSA Update**

Alison Paul reported on a new grant that MLSA received from the Legal Services Corporation to develop resources and a network of agencies and volunteers to provide civil legal assistance to disaster victims in Montana. Alison added that MLSA has hired a project coordinator with extensive disaster preparedness experience to spearhead this 30-month project. Brian Coplin offered to share resources and asked for the coordinator's contact information.

Alison also reported that MLSA is working with the Court Administrator's Office to address the problem of courts throughout the state failing to provide free translation services upon the request of litigants. MLSA is receiving reports from clients that they are being told they must pay for their own translators. MLSA is drafting an English-Spanish pro se form for use in requesting translation services. Alison said that MLSA may need to bring a claim if we continue to see this problem. Judge Halligan added that a wide variety of translators are needed, not just Spanish, and suggested that we should reach out to hospitals for help in finding additional resources. Patty Fain asked about certification requirements for translators and whether there is a difference between an interpreter and a translator. Sarah McClain replied that interpreter refers to spoken language, and translation refers to written language and added that certified interpreters and translators aren't required in Montana courts.

Finally, Alison said that the DV Working Group met in August and that the group has found value in their discussions, but that they aren't as active in project work due to turnover in the group.

Mēghan Scott, MLSA's Justice for Montanans (JFM) Project Director and Rural Incubator Program for Lawyers (RIPL) Coordinator, gave an update on both programs. Mēghan reported that 19 new JFM members were just sworn in and that we have a new partner agency, Montana Fair Housing in Butte, for a total of 6 partners. Mēghan reviewed the summary of outcomes achieved by the members during the last term of service (copy attached). Justice Baker asked how the JFM members leverage pro bono attorneys and Mēghan explained that the members organize monthly pro bono clinics in Billings, Missoula, Helena, and quarterly clinics in Bozeman, Kalispell and Great Falls. Mēghan added that we have to re-compete for the AmeriCorps grant every three years and for our competitive application this year, we plan to expand the program by adding another partner and three more member positions. For the RIPL program, Mēghan reported that we have recruited two new Fellows who will start with "boot-camp" training during the first week of October. She explained that we are adjusting the program to focus more on Modest Means referrals to deliver services statewide, rather than trying to place attorneys in rural locations. Dean Kirgis asked why we haven't placed Fellows in rural and Eastern Montana, and Alison replied that despite our best recruiting efforts, no one from those areas applied. Alison added that the two RIPL fellows who started in the spring of 2019 have already taken 200 Modest Means referrals. Ann Goldes-Sheahan added that there are many rural areas in Western Montana without enough attorneys and that the greatest volume of requests for sliding fee services is still in the more populated areas of Montana.

### **Justice Initiatives Committee Update**

Ann Goldes-Sheahan provided an update from the Justice Initiatives Committee (JIC). She noted that there is a lot of overlap between the JIC and the Access to Justice Commission and its committees and added that the JIC wants to collaborate more with the Commission and other access to justice stakeholders. Ann pointed out that the JIC has a new statement of purpose and strategic plan that is included in the meeting materials. She added that the new edition of the Montana Lawyer is focused on access to justice issues. Stuart Segrest reported that the CLE for Government Employees, last offered two years ago, is coming up in October and will focus on pro bono opportunities for state-employed attorneys and on clearing up misunderstandings about state policies around pro bono work. The CLE will also include instruction on how to do limited scope work. Justice Shea added that 20 chief counsels from various state agencies plan to attend. Ann also reported that the State Bar is moving forward with a licensed lawyer portal for referrals. Stuart asked for feedback on the JIC strategic plan and Justice Baker said that it looks very good and is the most detailed plan she's seen from the committee. She noted that the focus on pro bono is especially welcome and that it complements the efforts of the Commission. There were no other comments.

### **Approval of Minutes**

Justice Baker confirmed that a quorum was now present and asked for comments or corrections to the minutes of the March and June meetings. There were no comments or corrections. Alison Paul moved to approve the minutes from both meetings and Rick Cook seconded the motion. The minutes were approved without objection.

### **Law Library Update**

Sarah McClain gave an update on the Self-Help Video Project. She explained that the videos include general legal information and also provide line-by-line instruction on specific pro se forms,

including the fee waiver form and the most popular family law forms. The videos are on YouTube and will also be made available on Instagram. Links to the videos will also be placed on MontanaLawHelp.org alongside the appropriate forms. Letters of appreciation from Justice Baker on behalf of the Access to Justice Commission were sent to the JFM members and the Supreme Court law clerk who worked on the videos.

A link to a summary of case law related to pro se litigants and procedural standards, prepared by Justice Shea's intern, was included in the meeting agenda. Kaylan Minor said that she would like to include the summary in her presentation for courts of limited jurisdiction and Stuart Segrest offered to send her a recording of the CLE that was presented on this topic.

### **Self-Represented Litigants Committee**

Nolan Harris reported that the family law form edits are nearly complete. Improvements include more plain language, a streamlined process for combining forms, and more judge-friendly decrees. The finalized forms will be presented at the next district judges' meeting on October 9, and the forms will be published after the judges have a chance to review them.

### **Law School Partnerships Committee**

Angie Wagenhals gave an update from the Law School Partnerships Committee. She said that the committee is focused on finding clients and opportunities for first to third year law students. Kelsi Steele is working with the committee on Missoula pro bono clinics and opportunities for students to shadow licensed attorney mentors. Angie also said that MLSA's Emeritus Pro Bono program, Second Chance Justice, is working with Klaus Sitte who will supervise law students providing advice to tenants on housing issues. Dean Kirgis added that the primary limitation to student pro bono work is a shortage of supervising attorneys and that student interest is overwhelming. Justice Baker suggested that the RIPL Fellows may be able to help supervise. Patty Fain noted that a VISTA volunteer in veteran's advocacy will be working on building capacity for the veteran's legal clinic. Judge Halligan suggested that a solicitation letter from the court inviting attorneys to work in specific areas might be a good way to get volunteers.

### **Policy and Resources Committee**

Abby St. Lawrence provided a report on the activities of the Policy and Resources Committee. She said the committee has been meeting regularly to debrief the outcome of the legislative funding request and to begin planning for the next legislature. She said that it will be important to start educating legislators much earlier in the process and to have more one-on-one conversations with legislators. Abby directed the Commission to the new bill draft in Tab 4 of the meeting materials and pointed out that the proposed plan is to split the bill in two and to start the legislation in different committees. One bill will establish the civil legal aid grant program and a companion bill will include the appropriation, enabling the legislation to begin in either the House or Senate. Abby also highlighted language in Section 2.5 that prohibits funds from being used to sue the state, except under specific circumstances, and directs that the funds would not go to for-profit firms. Justice Baker offered a revision to the bill draft, proposed by Ed Bartlett who was unable to attend the meeting: on page 2, Section 2.2, remove the words, "has a primary focus of". Justice Baker asked for a motion to approve the bill draft as revised. Rep. Kim Dudik so moved and Dan McLean seconded the motion. Justice Baker voted the proxies of Judge Halligan and Ed Bartlett in favor of the motion. The motion was approved without objection.

### **Communications and Outreach Committee**

Niki Zupanic gave an update from the Communications and Outreach Committee. The committee's priority will be to review and revise the communications materials used to support the legislative funding request and the committee will share feedback and suggested improvements with the Policy and Resources Committee. She said that the committee is looking at ways to better incorporate data from the economic impact study into the outreach materials, and they are also reviewing the Commission website to find ways to make the information more accessible. Justice Baker added that we need to refine the messaging used for legislative outreach. The information presented to legislators during the 2019 session was too dense and not concise enough to be useful. Sarah McClain said that the State Law Library staff is in charge of updating and maintaining the website and offered to work with the committee on possible design enhancements.

### **Strategic Planning Committee**

Niki Zupanic and Tara Veazey updated the group on the Justice for All (JFA) project to support the Commission's strategic planning effort. Niki directed the group to Tab 5 of the meeting materials for an amendment to the strategic plan (on page 11 of the plan) that was proposed at the June meeting, but was not voted on due to the lack of a quorum. Tara reviewed the slides that were presented at the June meeting and were included in the additional meeting materials. Justice Baker asked for a motion to approve the amendment to the strategic plan. Alison Paul so moved and Katy Lovell seconded the motion. Justice Baker voted the proxies of Judge Halligan and Ed Bartlett in favor of the motion. The motion was approved without objection.

Tara explained that because the JFA project built on an established foundation of strategic planning and legal needs studies, we were able to save project resources to begin implementation of the plan. The implementation priorities for Tara to undertake with the remaining grant funds are: simplification of court rules and procedures; education of judicial and court staff with the development of a judicial bench guide/toolkit for working with self-represented litigants; the potential formation of a technology planning committee or subcommittee; development of a statewide comprehensive civil legal justice budget for use in legislative and internal planning; and facilitated planning for the Commission and each of its standing committees. Justice Baker noted that the grant from the National Center for State Courts ends in May 2020 and that the Commission is very fortunate to have Tara on board to begin implementation activities for the duration of the grant. Finally, Tara highlighted an example of a simplification initiative for informal trials in domestic relations cases that is being piloted or implemented in a number of states, including Alaska. Justice Baker said that Tara is going to have a judges panel look at this initiative and bring information back to the Commission.

### **Karla M. Gray Award Nomination Process**

Justice Baker asked the group for comments and suggestions on improving the nomination process for the Karla M. Gray Award. She noted that the nominations are coming in too late and suggested that the Commission set an annual deadline for nominations prior to the June meeting. Ann Goldes-Sheahan said that in the past when the State Bar tried to move up the deadline, they didn't receive very many nominations. She added that they needed to do a better job of publicizing the new deadlines and that this change is needed. Ann suggested that a mid-May deadline for nominations would be appropriate, in time for the planned June 5, 2020, Access to Justice Commission Meeting.

Justice Baker thanked Ann and the State Bar for their focus on access to justice at the Annual Meeting Awards Banquet and congratulated Dan McLean for receiving the Jameson Award.

**Public Comment and 2019-2020 Meeting Dates**

Justice Baker asked for public comment. There was no public comment. Justice Baker reviewed the upcoming meeting dates and Kaylan Minor pointed out that the planned December 6, 2019, meeting may conflict with the State Bar Board of Trustees meeting. Justice Baker said she would follow up with the State Bar. The meeting was adjourned at 11:58 a.m.

**Montana Supreme Court Access to Justice Commission**  
**December 6, 2019**  
**Large Conference Room, Office of the Court Administrator**  
**301 S. Park, Third Floor, Helena, MT**  
**10:00 AM – 12:00 PM**  
**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Katy Lovell, Alison Paul, Hon. John Kutzman (phone), Daniel McLean (phone), Kyle Nelson (phone), Ed Bartlett (phone), and Melanie Reynolds.

**Commissioners Absent:** Hon. Leslie Halligan, Melissa Schlichting, Rep. Kimberly Dudik, Aimee Grmoljez, Rick Cook, Dean Paul Kirgis, Georgette Boggio, Sen. Terry Gauthier, Hon. Stacie Smith, and Hon. David Carter.

**Others Present:** Niki Zupanic, Tara Veazey, Sarah McClain, Abigail St. Lawrence, Ann Goldes-Sheahan, Nolan Harris, Derrek Shepherd, Maggie Weamer, Hon. Katherine Bidegaray, Patrick Armstrong, Ryce Pierzina, Carin McClain, and Krista Partridge.

**Call to Order & Introductions**

Justice Baker called the meeting to order at 10:02 a.m. A quorum of Commissioners was not present, and so the approval of the September 20, 2019, meeting minutes was postponed until the next meeting.

**Law Library and District Court Rules Update**

Sarah McClain reviewed some of the new District Court Rules that will go into effect on January 1, 2020. She explained that the simplified procedure rule is intended to streamline and shorten the process and added that the State Law Library has developed a brochure with information on the changes. Justice Baker, Judge Eddy and the Communications and Outreach Committee have all reviewed the brochure. Justice Baker noted that the changes weren't targeted at self-represented litigants and also added that the new procedure rule does not apply to family law. Alison Paul asked for information on the new rules so that it can be made available for self-represented litigants on the MontanaLawHelp website.

Sarah reported that the Judicial Branch website has been redesigned and the Access to Justice Commission now has its own top-level page with improved visibility and ease of access. Justice Baker said that she reviewed the Commission websites that Sarah identified from other states for ideas on ways to improve Montana's website and thinks they offer some good ideas. Sarah noted that with the website changes, the URL for the website will change, but that shouldn't cause any problems. Sarah also reported that the State Law Library's Network Advisory Council is working on programming around civil engagement using the ABA Law Day as a model. They are targeting May 2020 for the launch of the civil engagement programming.

**Self-Represented Litigants Committee**

Nolan Harris reported that the committee has gained final approval for most of the family law forms that have been under development for the last couple of years. He said that the group is

working on new forms for 2020 and they are also developing guidelines on form drafting, translations and formatting. Nolan stated that the presentation to the Clerks of Court went well and that the committee is adapting the presentation for judges in courts of limited jurisdiction. Justice Baker asked if the presentations are being recorded for future use and Nolan replied that this has been contemplated, but the presentations have not been recorded.

Nolan also reported that 11 Court Help Connect video conference workstations have been tested and deployed at libraries or courthouses in Anaconda, Hamilton, Polson, Dillon, Lewistown, Harlowton, Conrad, Havre, Glasgow, Miles City, and Glendive. He said that they are starting to publicize the availability of the video conference stations. Justice for Montanans AmeriCorps member Patrick Armstrong will handle the scheduling for all the centers, at least during the start-up phase.

### **Policy and Resources Committee**

Abigail St. Lawrence reported that the bill draft proposal for the “Civil Justice Improvements Act of 2021” is nearly complete. She said that the group is working on a communication plan for the legislation and directed the Commission to the internal FAQ handout (Tab 3 of the meeting materials) for use in conducting in-person outreach. At the next meeting of the committee on January 2, 2020, they plan to divide up the list of contacts to be approached when legislators are in Helena for interim committee meetings during the week of January 13, 2020.

### **Communications and Outreach Committee**

Melanie Reynolds reported that the committee has been working very closely with the Policy and Resources Committee on reviewing materials and messaging for the Civil Justice Improvements Act. The goal of the committee is to make the educational materials more useful and user-friendly. The data will be updated and presented with more of a storytelling focus and targeted to specific audiences. The messaging will be centered around the impact of the legislation on all court users, including the way in which legal help can prevent lawsuits and save money by unclogging the court system. The committee’s next tasks are to meet with Tara Veazey on strategic planning goals, and to coordinate with the Policy and Resources Committee on setting up presentations around the state prior to the 2021 legislative session. Melanie added that the data on all the district handouts has been updated and that they are still working on the best way to present the data. Patrick Armstrong asked if legislators can be invited to visit the self-help law centers, and Justice Baker replied that this has been done in the past and needs to be approached properly so that confidentiality concerns may be taken into consideration.

### **Strategic Planning**

Niki Zupanic reported that additional funding may be available for implementation projects from the National Center for State Courts, and that we will submit a letter of intent for a pilot project. She said that up to \$25,000 may be available and that we would be notified in April. Niki added that we may also have access to more funding from the National Center before the end of 2019 to conduct an assessment survey and additional implementation activities.

Tara Veazey provided an update on the implementation projects being pursued with the remaining strategic planning funds. In the area of streamlining court rules and processes, the strategic planning committee is looking into informal domestic relation trials similar to those tested or

implemented in Alaska, Idaho, and Oregon. In those states, litigants can opt in to an informal family law process where the judge agrees to take on a more active role and the rules of evidence are waived. Tara noted that this process requires a great deal of education and safeguards for the litigants, but when done well it can lead to a more meaningful process for litigants and speedier judgments. She said that the first step will be a webinar with judges from the states that have piloted or implemented the program and she emphasized that we are in a very early, exploratory phase with much groundwork to be done before even considering a pilot program.

Tara also reported progress on the judicial education project. Proposed educational materials would take the form of toolkits, checklists, and bench cards – items that are practical, user-friendly, and easy to update – rather than something like the unwieldy and inaccessible bench guide for working with self-represented litigants that was produced in 2007. Tara is working with an ad hoc committee of judges to get recommendations on what would be most useful. Nolan Harris pointed out the need for a similar committee of judges that would be available to provide ongoing feedback on access to justice initiatives. Justice Baker suggested that there are committees that already exist, such as the District Court Council and the Committee on Limited Jurisdiction, and that we may want to start there rather than trying to form a new committee.

Tara added that the technology coordination group is working to leverage available funding and build on the resources and work done by different groups, including the State Bar, MLSA, the Legal Service Developer, and the Court Administrator's Office. Finally, Tara noted that the Montana Justice Foundation will lead the resource planning project to develop a comprehensive understanding of current resources, how they are allocated, and how they map onto the legal needs identified in the gaps and barriers study.

#### **Government Attorney Pro Bono Summit and CLE**

Justice Baker directed the group to the memo from Patty Fain at Tab 4 of the meeting materials and added that the event in October had a very good turnout with 58 in-person and 27 online attendees for the full day CLE. Outreach to attendees on volunteer opportunities is ongoing and a one-hour CLE is planned to outline emeritus opportunities for government attorneys who are nearing retirement. Justice Baker also reported that the E-RAMP pilot in the 11<sup>th</sup> Judicial District has concluded and that the program is going to be continued beyond pilot phase. She said that Patty is working on a report that will be presented at a future meeting.

#### **Public Comment and 2020 Meeting Dates**

Justice Baker asked for public comment. There was no public comment. Justice Baker reviewed the 2020 meeting schedule. The meeting was adjourned at 11:00 a.m.



# Tab 3

# Tab 4

## **Access to Justice Commission**

### **Civil Justice Improvements Act of 2021**

#### **What will this bill do?**

- This bill adjusts court filing fees for inflation and allocates a portion of those fees for services that provide legal information and assistance to Montanans who cannot afford an attorney to help with their civil legal issues.
- Assistance may include protecting survivors from domestic abuse, securing financial support for children, protecting seniors from consumer scams, and helping returning veterans obtain benefits they've earned.

#### **Why do we need this bill?**

- Following a two-year series of listening sessions across the state, the Montana Access to Justice Commission found that giving people the tools to address their legal problems has a positive impact on all court users, prevents lawsuits from being filed and cases from going to court, and saves the state money in the long-run.
- More and more Montanans come to court to address critical needs without the assistance of a lawyer. Lack of legal assistance significantly decreases the likelihood these problems will be resolved.
- When some court users must navigate a complex legal system alone, the added time and resources needed to handle those cases negatively impacts other court users waiting their turn in a crowded docket.

#### **How will this bill be funded?**

- This bill does not raise taxes or take money from the general fund.
- This bill increases court filing fees in some district court civil cases by adjusting for inflation the original fee set by the Legislature. Fees would increase only for case types that have seen no fee increase for decades.
- Increases will impact only court users who can afford to pay a filing fee. Those unable to pay can still request the court to waive filing fees.

#### **Who will benefit?**

- All court users will benefit by helping the courts operate more efficiently.
- Montanans struggling to make ends meet 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 with few legal services.
- Addressing civil legal needs strengthens entire communities by helping to improve safety, create stability, and secure financial independence for the people and families who live and work there.

### Who supports this bill?

- A similar bill in 2019 also was supported by business leaders, judges, public officials, and organizations representing veterans, domestic violence survivors, children, senior citizens, and victims of consumer scams, including:
  - Montana Supreme Court
  - Montana Judges Association
  - Montana Magistrates Association
  - Montana Association of Clerks of District Court
  - State Bar of Montana
  - Montana Chamber of Commerce
  - Montana County Attorneys Association
  - Montana Defense Trial Lawyers Association
  - Montana Trial Lawyers Association
  - Governor Steve Bullock
  - Attorney General Tim Fox
  - Montana AARP
  - Montana Association of Christians
  - Montana Coalition Against Domestic and Sexual Violence
  - Montana Generational Justice
  - Montana Justice Foundation
  - Montana Legal Services Association
  - Cascade County Law Clinic
- There were no opponents to the bill last session.

### What is the Access to Justice Commission?

- Created in 2012 by the Montana Supreme Court, the 18-member Commission represents the legislature, state and local courts, office of the Attorney General, tribal communities, the State Bar of Montana, the business community, the Alexander Blewett III School of Law, and legal service providers.
- The Commission evaluates the ability of Montanans to access our court system and coordinates efforts to improve efficiencies to help all court users in getting their legal issues addressed.

### For more information

- Visit: [courts.mt.gov/supreme/boards/a2j](https://courts.mt.gov/supreme/boards/a2j)
- Email: [atjcommission@mt.gov](mailto:atjcommission@mt.gov)

## Civil Justice Improvements Act: Background Frequently Asked Questions

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## A Note About Using This Document

This document is intended for volunteers and supporting stakeholders working to build legislative support for the Civil Justice Improvements Act. The information is a deeper dive into the questions that most commonly arise about the legislation. It is not meant to serve as primary talking points but may be helpful for individuals requesting more detailed information.

### Why should we care about access to the court system in civil cases?<sup>1</sup>

Nationwide, experts estimate that three out of four civil cases involve at least one self-represented litigant,<sup>2</sup> often because they can't afford a lawyer. This creates challenges for more than just self-represented litigants. Without access to appropriate resources, self-represented litigants can clog up the court system and strain the limited resources of clerks of courts, other court staff, and judges. This resource drain can create headaches and delays for everyone, including those Montana families and businesses who do have lawyers.

More issues should be resolved outside of the court system, and this bill will help. Even when judges and attorneys aren't involved, information and resources about the law are often necessary in order for individuals to come to a negotiated agreement. When those resources aren't available, individuals end up in court by default, creating further demand on a stressed system, and expending unnecessary private and public resources.

Finally, when other solutions aren't possible, the court system is where Montanans go to resolve some of the issues most important to their families and their finances, from child support and guardianships to living wills and tax disputes.

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<sup>1</sup> This answer is informed by the Policy and Resources Committee messaging guidance as well as public opinion research commissioned by Voices for Civil Justice (with financial support by the Public Welfare Foundation), "Building A Civil Justice System that Delivers Justice for All," at <https://voicesforciviljustice.org/wp-content/uploads/Voices-2017-Messaging-Research-Findings-LRP-ASO-Report-July-2017-Slides.pdf>.

<sup>2</sup> Self-Represented Litigation Network, National SRL Estimates from slrn.org, accessed on 10/30/2019, at <https://www.slrn.org/system/files/attachments/National%20SRL%20Estimates%20-%20Oct%202015%20slrn.pdf>.

Unfortunately, the legal system can be complicated and overwhelming, especially when trying to navigate it without legal help, but the cost of a private attorney is out of reach for many Montanans. In the most rural parts of the state, it can be particularly hard to find legal help.

For Montanans forced to navigate the legal system on their own, the consequences can be dire, affecting whether they can be safe from violence, support their families, stay in their homes, and protect their parents and grandparents from scams.

For decades, legal aid groups, pro bono attorneys, and court programs have been helping Montanans navigate the court system, but there's not enough help to go around, leaving too many seniors, people with disabilities, veterans, and working families shut out of the legal system and threatening the promise of equal justice under the law.

### How are Montanans in rural counties impacted by lack of access?

Obtaining legal help in Montana's most rural counties can be particularly difficult. Twenty-five Montana counties have five or fewer active, licensed attorneys living in them, and sixteen counties have two or fewer, as detailed below.<sup>3</sup>

County	# Licensed, Active Attorneys	County	# Licensed, Active Attorneys
Golden Valley	0	Broadwater	3
Petroleum	0	Chouteau	3
Garfield	1	Wheatland	3
McCone	1	Blaine	4
Meagher	1	Sheridan	4
Musselshell	1	Sweet Grass	4
Powder River	1	Mineral	5
Treasure	1	Powell	5
Wibaux	1	Toole	5
Carter	2		
Daniels	2		
Fallon	2		
Liberty	2		
Phillips	2		
Prairie	2		
Rosebud	2		

With so few practicing lawyers, even people who have resources can have a hard time finding a lawyer without a conflict and with subject matter expertise.

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<sup>3</sup> Montana Bar Association data, pulled on January 6, 2020.

## What are examples of civil legal issues that affect Montana families?

Virtually every part of life can be impacted by the civil legal system, where, unlike many criminal cases, there is no right to a court-appointed attorney. Examples include:

- Powers of Attorney
- Probate and Wills
- Nursing Homes and Elder Care
- Disability Rights
- Child Support
- Adoption
- Name Change
- Guardianships of Minors
- Grandparents' Rights
- Dissolution (divorce)
- Custody, Visitation, Parenting
- Moving or Changing a Parenting Plan
- Frauds and Scams
- Identity Theft
- Credit Reports
- Wage Garnishment
- Bankruptcy
- Disputing a Debt
- Collection Lawsuits
- Safety from Domestic Violence/Orders of Protection
- Victims' Rights
- American Indian Rights
- Education
- Elder Abuse, Neglect, Exploitation
- Public Benefits
- Veterans' Benefits
- Discrimination
- Workers' Compensation
- Security Deposits
- Rental Agreements / Leases/ Evictions
- Housing Discrimination
- Employment
- Home Ownership
- Foreclosure
- Utilities
- Public Housing and Subsidized Housing



## How big is the need?

Although private attorneys, legal aid, non-profit and public lawyers have been working hard for decades to address the civil legal needs of Montanans who can't afford private attorneys, current resources are insufficient to meet needs.

Over 194,611 Montanans, roughly 18% of the state's population, live at or below 125% of the poverty line<sup>4</sup> (\$25,750 for a family of four<sup>5</sup>) and are thus eligible for legal aid. For most if not all of these individuals, the cost of private legal representation is out of reach when they are faced with a legal problem. To serve this entire population, there are only 18 civil legal aid attorneys at Montana Legal Services Association (MLSA), which is the only statewide general civil legal aid organization in Montana.<sup>6</sup> Recent research indicates that fewer than 1 in 10 Montanans who qualify for legal aid are able to address their legal need.<sup>7</sup>

Unfortunately, these numbers likely understate the need. Many families who don't qualify for legal aid also don't have sufficient resources to pay full price for private representation. For such families, the State Bar and MLSA have collaborated on a Modest Means program that helps match clients with lawyers willing to help moderate-income clients with reduced retainers and rates. However, current resources are insufficient to adequately facilitate and expand the program.

## What is the solution?

The Civil Justice Improvements Act will help by creating funding for improved legal information and assistance to ordinary Montanans who are facing a legal issue but cannot afford or otherwise access an attorney.

### How would the program be funded?

Since Montana's earliest days of statehood, the court system has been partially funded by fees paid by users of that system. Specifically, users of the court system pay various filing fees and appearance fees. Many of those fees have not been adjusted for inflation since they were set by the Legislature decades ago. Rather than raising taxes or seeking money from the general fund, the Civil Justice Improvements Act simply adjusts for inflation the filing fees that have not already been increased by the Legislature to pay for needed court services. See Appendix A for a complete list of the filing fee changes. The revenue generated by the inflation adjustment will be deposited into a new special revenue account, the "civil justice improvements account."

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<sup>4</sup> U.S. Bureau of the Census, 2017 ACS 5YR Estimates, States (125% Poverty) available at [https://lsc.gov.shinyapps.io/Census\\_Data\\_for\\_Grantees/](https://lsc.gov.shinyapps.io/Census_Data_for_Grantees/).

<sup>5</sup> Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services (January 11, 2019) available at <https://aspe.hhs.gov/poverty-guidelines>.

<sup>6</sup> Montana Legal Services Association has 17.5 Full Time Equivalent casehandling attorneys as of May 2, 2019. There are estimated to be 20-25 attorneys statewide working for non-profit organizations serving low-income Montanans with civil legal needs. Carmody and Associates on behalf of the Access to Justice Commission, [The Justice Gap in Montana: As Vast as Big Sky Country](#) (2014).

<sup>7</sup> Carmody and Associates on behalf of the Access to Justice Commission, [The Justice Gap in Montana: As Vast as Big Sky Country](#) (2014).

### Who will decide where the money goes? What kinds of programs will be funded?

The Legislature will decide how much funding to appropriate from the new special revenue account. Within the amount appropriated, the Supreme Court Administrator will administer the fund according to established state procurement procedures, awarding grants to court-based or not-for-profit programs that meet at least one of the following criteria, established in CJIA, New Section 2(3):

- “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 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.”

Applicants for the funding will be required to include a detailed plan for how they will collect and report data, account for the funds received, and measure progress on performance goals.

### Are there any restrictions on how the funding can be used?

Yes. CJIA, New Section 2(5) prohibits funding distributed from the account from being 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 governmental benefits 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.”

### What kinds of organizations are eligible to apply for the grants?

New Section 2(2) of the CJIA provides that the following entities are eligible to receive grant funding under the CJIA:

- “court-based 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.” The Act further specifies that “[a]n 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.”

## Who supports the Civil Justice Improvements Act?

A similar bill in 2019 was supported by business leaders, judges, public officials, and organizations representing veterans, domestic violence survivors, children, senior citizens, and victims of consumer scams, including:

- Attorney General Tim Fox
- Cascade County Law Clinic
- Coalition Against Sexual and Domestic Violence
- Governor Steve Bullock
- Montana AARP
- Montana Association of Christians
- Montana Association of Clerks of District Court
- Montana Chamber of Commerce
- Montana County Attorneys Association
- Montana Defense Trial Lawyers Association
- Montana Generational Justice
- Montana Judges Association
- Montana Justice Foundation
- Montana Legal Services Association
- Montana Magistrates Association
- Montana Supreme Court
- Montana Trial Lawyers Association
- State Bar of Montana

There were no opponents to the bill last session.

## Why should the State pay to give lawyers to people in private legal disputes?

This bill isn't about giving a lawyer to everyone who has a legal issue. It's about making sure that no matter where you live, how old you are, or how much you make, you can find information and resources to help you resolve the legal issues that affect your family and your livelihood. It's about making sure that our courts aren't clogged with people who could have resolved their issues if they had a little bit of help earlier. And it's about making sure that the people who do end up in court have the information or assistance they need to proceed efficiently and effectively, which makes the system function better for everyone involved—from court staff and judges to litigants of all stripes. That's part of the reason that everyone from the Chamber of Commerce to the County Attorneys have supported the CJIA.

## Who will benefit from the CJIA?

All court users awaiting their turn on a crowded docket will benefit by helping the courts operate more efficiently.

Veterans, domestic violence survivors, children, senior citizens, victims of consumer scams, people struggling to stay in their homes, and Montanans in rural areas with few lawyers will benefit by getting the help they need to navigate legal situations.

Montana communities will benefit when families secure financial stability, parents obtain support for their children, and veterans and people with disabilities receive their hard-earned benefits.

### What about people who can't afford to pay the fee?

This bill will not change the current law that allows Montanans who are unable to pay a filing fee to petition the court for a fee waiver.

### How do we know this money will go where it is needed and not just become part of the bureaucracy?

The Supreme Court Administrator is not seeking any funding for the administration of the grant program. One hundred percent of the funding will go toward programs that support the purposes outlined in the Act.

### How will you demonstrate that the CJIA created court efficiencies?

The Supreme Court Administrator will evaluate proposals for funding based in part on the applicants' plans for reporting outcome measurements that comply with the purposes of the grant. New Section 7 of the CJIA requires the Supreme Court Administrator to 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 ..., the amount of funds distributed..., and the programs or nonprofit organizations to which funds were distributed." The Supreme Court Administrator must "include a summary of the legal services provided to persons of limited means by organizations receiving funds..., a summary of outcome measures, and information concerning the impact, if any, on court efficiencies and caseloads."

### Why should some people have to pay more in fees so that other people can have lawyers?

The CJIA does not pick or choose who pays more in fees. Rather, it represents a uniform inflationary increase on basic district court civil filing fees that haven't been adjusted in decades so that users of the system continue to contribute to the efficient operation of that system.

For our justice system to work efficiently, everyone needs to be able to participate effectively. In fact, access to legal resources helps Montanans stay out of court and avoid expensive litigation. For example, the Early Resolution and Mediation Program (e-RAMP) in Kalispell is helping families avoid court by providing free mediation to individuals in family law cases when neither party has a lawyer. The vast majority of the cases going through the program have been settled out of court.<sup>8</sup> The Civil Justice Improvements Act could help programs like e-RAMP get off the ground in other parts of the state.

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<sup>8</sup> Joe Menden, "Family Plan: Justice Laurie McKinnon's vision for E-RAMP program making a difference for self-represented parents in the 11<sup>th</sup> Judicial District." [Montana Lawyer](#), August 2019.

### What about my constituents who can't afford private lawyers but make too much to qualify for legal aid?

The Civil Justice Improvements Act would fund an array of resources and services, many of which are available to anyone needing legal assistance, regardless of income. Updated and improved information, forms, and resources at Self-Help Law Centers, workstations, and websites are available to anyone, whether they are seeking help because they can't find a lawyer in their rural community, can't afford a lawyer, or simply would prefer to resolve a relatively simple matter on their own.

In addition, the Civil Justice Improvements Act will make funding available to programs that help Montanans resolve legal issues out of court, by assisting with mediation or simple actions like writing a letter, thus holding down system costs for everyone. In fact, MLSA handles over 97% of cases through negotiated settlement, administrative action, or brief legal advice and services. When help is available, many issues are resolved out of court. Attorney representation in court tends to be reserved for the most egregious and extreme cases, like parenting plan disputes in situations of domestic violence. See Appendix B for a breakdown of services provided by statewide general legal aid in 2018.

Finally, funding under the CJIA may be used for "modest means" programs, which work to identify and match Montanans of limited means with lawyers willing to offer a reduced fee that the client can afford.

### How do I know you're not going to be just like the public defender system, coming back every session for more money?

Unlike criminal defense, litigants in civil cases are not guaranteed a lawyer. In addition, this act does not use any general fund dollars. The CJIA simply calls for modest inflation adjustments to outdated filing fees to help an overburdened court system work more effectively and efficiently and ensure that everyone has access to the basic information and services needed to address their legal issues. The Legislature will always maintain the ability to decide how much money from the court improvements special revenue account is reasonable to appropriate to help Montana courts meet their obligations to civil litigants.

### This is a legal problem. Shouldn't lawyers solve it or pay for it?

Not many professions are expected to give away their services for free, but most lawyers support and follow the ethical rule that they should provide free services to those in need.<sup>9</sup> In 2018, Montana lawyers reported providing 164,211 hours of free or reduced-fee legal services, valued at almost \$25 million.<sup>10</sup>

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<sup>9</sup> American Bar Association, Standing Committee on Pro Bono and Public Service, "[SUPPORTING JUSTICE A FOURTH REPORT ON THE PRO BONO WORK OF AMERICA'S LAWYERS](#)," April 2018 ("Most attorneys (81%) have provided pro bono service at some point in their lives....The top three factors that motivated attorneys to do pro bono were: 1) helping people in need, 2) ethical obligations, and 3) professional duties.").

<sup>10</sup> Montana Supreme Court, [Annual Pro Bono Report](#), June 2019, p. 3.

There are 12 local pro bono programs in Montana. Many of Montana's organized pro bono programs are organized by district courts or local bar associations. For many of the local programs, MLSA provides recruitment, screening, referrals, and assistance in administration. In addition to the local programs, the Court and MLSA work hard to provide meaningful opportunities statewide to support private attorneys willing to volunteer their time to those most in need, including a Low Income Taxpayer Clinic, File Your Own Bankruptcy Program, Montana Pro Bono Connect, AskKarla.org, and Second Act Justice Project. For example, Montana Attorneys for Montana Veterans (MAMV) is a pro bono program coordinated by the Montana Supreme Court and the University of Montana School of Law. Pro bono attorneys receive the required training to become accredited to represent veterans with VA disability benefits claims before the Board of Veterans Affairs. MAMV's training has increased the number of accredited attorneys from two to 50. See Appendix C for a list of organized pro bono programs in Montana.

Despite the demands that face all hardworking Montanans - student debts, career pressures, caring for families, and fulfilling other volunteer obligations - Montana lawyers contribute considerable time and energy to reducing the unmet legal need in the state. However, with over 194,000 Montanans that qualify for civil legal aid, the ongoing efforts to increase the amount of pro bono services will never be sufficient alone to meet the legal needs.

#### Don't we already have private funding sources for these kinds of projects?

In addition to volunteer services, lawyers gave over \$75,000 last year to the Montana Justice Foundation (MJF). Lawyers also cooperate with MJF's Interest on Lawyers' Trust Accounts (IOLTA) program, helping to generate funding (\$357,855 last year) that is distributed to programs across the state that help address gaps in access to the civil legal system. Despite these significant contributions, the Montana Justice Foundation can often fund only about half of the needs of the Montana programs requesting financial assistance. For more information about the Montana Justice Foundation, see the organization's 2019 Annual Report at Appendix D.

#### We already have too many lawyers and too much litigation. Won't this just make the problem worse?

When individuals have access to the information and services they need to resolve their legal issues, it often helps them avoid litigation. The Civil Justice Improvements Act would make funding available to programs that help individuals resolve legal issues out of court, by assisting with mediation or simple actions like writing a letter. For example, the Early Resolution and Mediation Program (e-RAMP) in Kalispell is helping families avoid court by providing free mediation in family law cases when neither party has a lawyer. The vast majority of the cases going through the program are settled out of court.

In fact, MLSA handles over 97% of cases through negotiated settlement, administrative action, or brief legal advice and services. When help is available, many issues are resolved without litigation and the ones that do require court action are more efficient and fairer. Attorney representation in court tends

to be reserved for the most egregious and extreme cases, like parenting plan disputes in situations of domestic violence.

### What services are already provided? Aren't they enough?

The court system, pro bono attorneys, legal aid, and the Montana Justice Foundation are working hard to meet the needs but simply can't keep up with demand. With limited resources, the court, legal aid, and other partners are providing the following services:

- Self Help: Court Help Program - Provided more than 16,000 customer services in 2019. Almost 70% of customers using self-help services earn less than 125% of the federal poverty line (\$25,750 for a family of four). The Court Help Program does not provide legal advice.
- Volunteer Attorneys: Pro Bono Services - Almost 1,900 Montana attorneys provided 164,211 volunteer hours in 2018.
- Free On-Line Legal Forms (MontanaLawHelp.org) – Nearly 12,000 self-help materials downloaded and nearly 6,000 self-help forms finalized in 2018.
- Elder Wills: Montana Aging Services Bureau (DPHHS) - Handled 609 cases for elder Montanans in 2017.
- General Civil Legal Aid: Montana Legal Services Association- Is a national leader in innovative technology methods to increase access and efficiency; provides a low-cost, rural service delivery model by using centralized attorneys serving clients in every single county; helped 9,033 clients and their family members, including 4,102 children, in 2018 with only 18 MLSA attorneys.

Even with these efforts, a study in 2014 revealed that fewer than 1 in 10 Montanans who qualify for civil legal aid are able to access the help they need. As a result, too many Montanans still have to navigate complex legal situations on their own.

For information about services provided in a specific county, see Appendix E.

### What are the economic impacts of civil legal aid?

Access to legal assistance results in tangible economic benefits for families, businesses, communities, and the overall economy. In fact, both the Montana Chamber of Commerce and the Montana Landlords Association have supported the Civil Justice Improvement Act because they recognize the economic benefits of a legal system that works efficiently and effectively for all.

A 2015 economic impact report based on 2013 MLSA data found that:

- “Civil legal assistance by MLSA resulted in \$1,386,673 in direct benefits to people living in poverty.”<sup>11</sup> Examples of sources of economic benefit include child support, health and income maintenance benefits authorized by law (e.g. SSI, SSDI, CHIP, SNAP, TANF), and foreclosure prevention. That money circulates in the local and state economy. Clients spend awards to pay

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<sup>11</sup> MLSA, [The Economic Impact of Civil Legal Aid to the State of Montana](#), 2015. p. 13.

for additional goods and services in their local communities and to secure the health and stability of their families.

- In addition to the direct economic benefit provided to clients and their families, civil legal aid can also help clients and communities avoid or mitigate against avoidable expenses. For example, assisting a victim in safely leaving an abusive relationship can result in savings to families, communities, and the state in the form of reduced medical and mental health care costs. If MLSA helped prevent just one assault in each of the domestic violence cases it handled in 2013, it would have saved an estimated \$1.4 million in avoided medical expenses.<sup>12</sup>

### What is the Access to Justice Commission?

The Commission was created by the Supreme Court in 2012. It has 18 members, representing the Legislature, state and local courts, the Attorney General's office, tribal communities, the State Bar, the business community, the law school, and legal service providers. The Commission evaluates the ability of Montanans to access our court system, engages in long-range planning, and coordinates efforts to improve efficiencies to help all court users to get their legal issues addressed. For a list of Commissioners as of December 4, 2019, see Appendix F.

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<sup>12</sup> MLSA, [The Economic Impact of Civil Legal Aid to the State of Montana](#), 2015, pp. 16 -17.



## Sources for Additional Information

American Bar Association, Standing Committee on Pro Bono and Public Service, [Supporting Justice: A Fourth Report on the Pro Bono Work of America's Lawyers](#) (2018)

Carmody and Associates on behalf of the Access to Justice Commission, [The Justice Gap in Montana: As Vast as Big Sky Country](#) (2014)

Montana Supreme Court, [Annual Pro Bono Report](#) (2019)

The Self-Represented Litigation Network, [SRLN Brief: How Many SRLs?](#) (2019)

Institute for the Advancement of the American Legal System, [Cases without Counsel: Research on Experiences of Self-Representation](#) (2016)

### Appendix A: Proposed Fee Adjustment Table

Proposed inflationary increases to the fees of clerk of district court as proposed in Section 4 of the CJIA, amending § 25-1-201, MCA.

<b>Action</b>	<b>Current Fee</b>	<b>Proposed Adjusted Fee</b>
The commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner	\$90	\$150
Filing a complaint in intervention, from the intervenor	\$80	\$150
Filing a petition for dissolution of marriage*	\$170	n/a
Filing a petition for legal separation*	\$150	n/a
Filing a petition for a contested amendment of a final parenting plan*	\$120	n/a
From each defendant or respondent, on appearance	\$60	\$75
On the entry of judgment, from the prevailing party	\$45	n/a
Filing a foreign (out-of-state) judgment for enforcement in Montana	\$60	\$122

\* Fees which have already been adjusted in previous legislative session would not be increased under the CJIA. Examples of several fees which would not be increased are included above for reference.

## Appendix B: Summary of 2018 MLSA Services

<b>Total New Requests for Assistance:</b>	<b>8,452</b>
Referred to other service providers without intake:	1,088
<b>Total New Intakes:</b>	<b>7,364</b>
New cases opened and <b>served</b> :	3,072
New Intakes <b>not served</b> :	4,292
<b>Total Number of Cases Handled (new and ongoing):</b>	<b>3,953</b>
Handled by 280 volunteer Pro Bono Advocates:	1,382
Handled by MLSA Staff:	2,571

### Services Provided in 2018 (closed cases)

MLSA handles over 97% of cases through negotiated settlement, administrative action, or brief legal advice and services.

<b>Level of Service Provided</b>	<b>Number of Cases</b>	<b>% Total Cases</b>
Advice or brief service	2,931	94.0%
Settlement negotiated	95	3.0%
Handled through administrative agency	22	0.7%
Uncontested court action	17	0.5%
Contested court action*	50	1.6%
Appeals	1	0.0%
Other	<u>2</u>	<u>0.1%</u>
<b>Total Cases Closed:</b>	<b>3,118</b>	<b>100%</b>

\*Of the cases with contested court action, 35 involved family law (of 1,705 total family law cases handled). The remaining 15 cases involved consumer law, employment, juvenile, housing, and tribal law.

Nature of Problems Served (closed cases):

Type of Case	Number of Cases	Percentage of Total Cases
Consumer	511	16%
Education	1	<1%
Employment	148	5%
Family	1,355	43%
Juvenile	22	<1%
Health	45	1%
Housing	696	22%
Income Maintenance	112	4%
Individual Rights	18	<1%
Miscellaneous/Other	210	7%

On-line Access to Legal Information

Source of Information	Number
Visitors to MontanaLawHelp.org	151,375
Pages viewed on MontanaLawHelp.org	388,716
Self-help materials downloaded	11,981
Documents finalized using LawHelp interactive forms	6,771

## Appendix C: Description of Pro Bono Programs in Montana

The **First Judicial District Pro Bono Program** (Broadwater and Lewis and Clark counties) is administered by the First Judicial District Bar Association Pro Bono Committee and MLSA. The program supports a full representation program and a monthly limited scope clinic. The program handles all civil legal issues but focuses on contested family law cases.

The **Second Judicial District Court Pro Bono Program** works closely with MLSA, which refers screened applicants to the program, while the Law Librarian for the Second Judicial District Court oversees pro bono referrals. At least one pro bono case per year is mandatorily assigned to attorneys who practice in Butte-Silver Bow. Only full representation, dissolution of marriage and parenting plan (no modifications) cases are assigned.

The **Third Judicial District Court Pro Bono Program** provides services in Deer Lodge, Granite and Powell Counties. It is administered by the Third Judicial District Court's Judicial Assistant and MLSA. Although the program is not limited to family law, most of the referred cases are in the area of family law. The program is limited to full representation referrals.

The **Western Montana Bar Association Pro Bono Program**, supported and managed by the WMBA Pro Bono Committee and administered by MLSA, provides assistance in the Fourth and Twenty-First Judicial Districts (Mineral, Missoula, and Ravalli Counties). The program supports both a full representation program and a monthly limited scope clinic. The clinic provides assistance on all family law issues. The full representation program handles all civil legal issues.

The **Fifth Judicial District Court Pro Bono Program** provides services in Beaverhead, Jefferson, and Madison Counties. It is administered by the Fifth Judicial District Court's Judicial Assistant and MLSA. Although the program is not limited to family law, most of the referred cases are in the area of family law. The program is limited to full representation referrals.

The **Great Falls Family Law Clinic** is a clinic hosted by the Cascade County Law Clinic, a local organization that recruits volunteer attorneys for limited-scope family law cases in the **Eighth Judicial District**. MLSA provides screening and scheduling for the monthly clinic.

The **Bar Association of the Tenth Judicial District** facilitates a pro bono attorney meeting individually with self-represented litigants in the Fergus County courthouse to answer questions about legal procedure, point people in the right direction for their legal programs, and review forms for completeness. All Lewistown attorneys take turns providing this service.

The **Northwest Area Bar Association Pro Bono Program**, administered by MLSA and a volunteer attorney, provides assistance to clients in the Eleventh Judicial District (Flathead County). Cases may be taken in a variety of legal areas. The program supports a quarterly family law limited scope clinic.

The **Twelfth Judicial District Pro Bono Program** is coordinated by MLSA and a local volunteer attorney. The program is not limited to particular legal areas, but most cases are family law.

Clients in Hill, Chouteau, Liberty and Blaine counties are eligible for the program. The program is limited to full representation referrals.

The **Yellowstone Area Bar Association Pro Bono Program** is coordinated by the Bar's Pro Bono Coordinator, MLSA, and the Thirteenth Judicial District Court, which covers Yellowstone County. Family law advice clinics are held twice a month. Clients must attend a free family law clinic prior to being accepted for referral through its full representation program. Referrals to local attorneys are made by a District Court Judge.

The **Eighteenth Judicial District Court Pro Bono Program**, which covers Gallatin County, is coordinated by the district court's administrator and MLSA. Family law cases that are in contest before the court are placed with volunteer attorneys. Full representation referrals are made by the District Court Administrator. Family law clinics are offered monthly.

**Montana Attorneys for Montana Veterans** is a pro bono program coordinated by the Montana Supreme Court and the University of Montana School of Law. Pro bono attorneys receive the required training to become accredited to represent veterans with VA disability benefits claims before the Board of Veterans Affairs. MAMV's training has increased the number of accredited attorneys from two to 50. In addition, pro bono assistance is coordinated for veterans who attend a **Veterans Stand Down**. Some Stand Downs include the services of the Court Help Program, more fully described in the Legal Information section.

The **University of Montana Alexander Blewett III School of Law Family Law Advice Clinic** is a monthly clinic administered by MLSA and a faculty member at the law school. Faculty, staff, and students volunteer at the clinic. The clinic provides assistance on all family law issues and encourages law students to participate in a "teaching hospital" model that allows students to learn family law firsthand.

**Low Income Taxpayer Clinic** is a statewide federal tax clinic. MLSA coordinates the clinic, recruits new attorney volunteers, screens clients, and refers clients. An MLSA staff attorney provides attorney support to volunteers with the program.

**File-Your-Own-Bankruptcy Program** is coordinated by MLSA to provide volunteer advice and document review to clients in the process of filing for Chapter 7 Bankruptcy. The program provides statewide limited scope services.

**Montana Pro Bono Connect** is administered by MLSA to support volunteer attorneys to provide limited scope advice over the phone to clients throughout Montana. The program volunteers provide advice to clients with their family, employment, housing, and end-of-life planning related issues.

**AskKarla.org** is a free online advice platform administered by MLSA. AskKarla.org allows users to ask legal questions using a secure online advice platform, with volunteer attorneys anonymously answering posted questions. Users of AskKarla must complete an online screening to see if they are financially eligible to use the service.

**Second Act Justice Project** is a pro bono program administered by MLSA for retired and emeritus volunteer attorneys, who provide over-the-phone advice to clients, provide follow-up appointments to clients who have already received legal aid services, and mentor MLSA staff attorneys in certain aspects of litigation.

Some **Domestic Violence Programs** recruit and have direct connections with pro bono attorneys who represent victims of domestic violence.

The recently created **Montana Appellate Pro Bono Program** provides the assistance of appellate counsel to self-represented litigants who meet MLSA's financial eligibility and have a case under review by the Supreme Court that the Court determines requires supplemental briefing or oral argument. Twenty attorneys have volunteered for the program, and two cases have been placed. The program may be expanded to more fully utilize the volunteer attorneys.

## Appendix D: Montana Justice Foundation Annual Report

[Placeholder for annual report]



## Appendix E: County Data

[Placeholder for future data]

## Appendix F: ATJ Commission Members

Members of the Montana Supreme Court Access to Justice Commission (as of Dec. 4, 2019):

Melissa Schlichting	Office of the Attorney General
Rep. Kim Dudik	Montana House of Representatives
Senator Terry Gauthier	Montana Senate
Justice Beth Baker	Montana Supreme Court Justice
Hon. Leslie Halligan	District Court Judge
Hon. John Kutzman	District Court Judge
Hon. David A. Carter	Court of Limited Jurisdiction Judge
Rick Cook	Clerk of a District Court
Hon. Stacie Smith	Montana-Wyoming Tribal Judges Association
Kyle Nelson	Montana Justice Foundation
Alison Paul	Montana Legal Services Association
Dan McLean	State Bar of Montana
Paul F. Kirgis	University of Montana School of Law
Ed Bartlett	Business/communications leader
Aimee Grmoljez	Business/communications leader
Melanie Reynolds	Representative of organizations working with low-income individuals
Georgette Boggio	Representative of Native American communities
Katy Lovell	Aging Services Bureau

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act creating the Civil Justice Improvements Act of 2021; 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; amending sections 3-1-702, 25-1-201, 25-9-506, 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 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 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 7. 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.

NEW SECTION. **Section 8. {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 9. {standard} Effective date.** [This act] is effective July 1, 2021.

# ATJC Draft Copy

As of: September 20, 2019 (2:04PM)

LCXXXX

NEW SECTION.    **Section 10.    {standard} Termination.** [This act]  
terminates June 30, 2027.

- END -

# Tab 5

Communication and Outreach Committee  
Update to the Access to Justice Commission for March 6, 2020

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- The ATJ Communications and Outreach Committee last met on January 29, 2020. The committee has continued to work on revisions to the Civil Justice Improvements Act handouts and the ATJC website as its most recent projects. The committee is coordinating the legislative materials development with the Policy and Resources Committee.
- The committee has been reviewing a new version of the Justice for All infographic handout. Niki Zupanic is working with a graphic designer to reformat this handout to include updated data, a new look, and additional information that the committees have requested.
- The committee is in the process of updating the caseload and other data from each of the judicial districts for use in legislative materials. MLSA is taking the lead in updating that data.
- Sarah McClain, the state law library director, is working on updating and streamlining the ATJC website. Sarah and others are using best practice/good ideas from other ATJ commissions for the revamp.
- The committee briefly talked about some future projects including collecting stories related to civil legal aid and why it matters. We also talked about other educational strategies and materials including stickers and social media. Also, getting some sample letters to the editor and op-eds on why civil legal aid matters is also being considered.
- The committee also agreed to a facilitated planning meeting with Tara Veazey and is in the process of finding a date to do this in March.

# Tab 6



Screenshot of New ATJC Test Website as of 2/26/20

https://testa2j.mt.gov/Home/Logon/637183289246235713

 **MONTANA**  
JUDICIAL BRANCH

Search...

[HOME](#) [ABOUT](#) [I NEED HELP](#) [I CAN HELP](#)

[Home](#)

# Access to Justice Commission

MAKING OUR COURT SYSTEM WORK FOR ALL MONTANANS



## INFORMATION CENTER

Reports, Meeting Materials, Rules and Orders

[View details »](#)



## WHAT IS CIVIL LEGAL AID?

Learn more.

[View details »](#)



## CIVIL JUSTICE IMPROVEMENTS ACT

[View details »](#)

**188,000**

Montanans are eligible for free legal aid.

**\$1,386,673**

in direct benefits, including child support, healthcare, and foreclosure prevention; \$1,422,000 in medical cost savings from domestic violence prevention alone.

**95%**

of cases closed by Montana Legal Services Association are resolved without going to court.

## Sample draft test page – I Need Help

https://testa2j.mt.gov/needhelp



MONTANA  
JUDICIAL BRANCH

Search...



HOME

ABOUT

I NEED HELP

I CAN HELP

I Need Help

## I Need Help

### WHERE CAN I GET LEGAL ASSISTANCE?

#### The Court Help (Self-Help) Program

Find a Self-Help Center near you for free assistance on common civil legal problems, including general help with forms.

[www.courts.mt.gov/selfhelp](http://www.courts.mt.gov/selfhelp)

[\(406\) 841-2975](tel:(406)841-2975)

#### Montana Legal Services Association

Apply for legal services and access information and brochures on civil legal topics.

[www.mtlsa.org](http://www.mtlsa.org)

[1 \(800\) 666-6899](tel:1(800)666-6899)

#### MontanaLawHelp.org

Browse the go-to site for civil legal guidance and forms. Access the Self-Help Landing Page.

[www.montanalawhelp.org](http://www.montanalawhelp.org)

State Bar of Montana

# Tab 7

# **Materials – Yellowstone County Domestic Violence Court Exploratory Project**

Montana Access to Justice Commission

Meeting: March 6, 2020, Helena, Montana

## **Table of Contents:**

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Types of Domestic Violence Courts, Jurisdiction and Guiding Principles.....	11.
What makes a Domestic Violence Court work?.....	13.



### Press Release

**Contact:**

Justice of the Peace David A. Carter  
Justice of the Peace Jeanne Walker  
Yellowstone County Justice Court  
406.256.2891

Amanda Green  
Alternatives, Inc  
Director of Development  
406.855.4490/[agreen@altinc.net](mailto:agreen@altinc.net)

## **Yellowstone County Domestic Violence Court Exploratory Project**

**January 24, 2020 – Billings, MT** - The Yellowstone County Justice Court is pleased to announce the monetary grant awarded by the Montana Board of Crime Control under the STOP Violence Against Women's ACT (VAWA) to explore the creation of Montana's first domestic violence specialty court. The Justice Court, in conjunction with Alternatives, Inc., applied for the grant. The grant will facilitate research into the following:

- Best practices in general from working domestic violence courts across the country of similar size and demographics to determine eligibility of participants, communication with victims, and duration of a sentence with proper incentives and interventions to achieve success;
- Collection of data to explore a specialty court focused on a victim's legal, financial, and emotional independence from a convicted defendant;
- Best practices to deliver legal aid to resolve matters that if left unchanged may result in an ongoing, abusive relationships, e.g. obtaining a parenting plan, dissolution of marriage if needed, housing concerns, ownership of personal property, refinancing of debt;
- Awareness and implementation of cross-cultural practices with a focus on Native American populations;
- Desire to apply the services to a caseload of between 75 and 100 cases per year;
- Analysis of any changes to Montana statutory law to facilitate the goals noted above.

The funding will be spent on a coordinator researching domestic violence courts in the United States, collection of data in Yellowstone County and communities within approximately a 100-mile radius, and proper implementation of a specialty court under the current Justice Court's caseload. Through a multidisciplinary team which includes public, private, and non-profit organizations, the DV Coordinator is analyzing the impact a specialty court like this could have on our growing community.

The Justice Court and Alternatives' goal is to facilitate discussions, garner support, and obtain data which supports a recommendation on the need for a domestic violence court in Montana's largest community.

## Domestic Violence Courts: Is One Feasible in Yellowstone County?

The goal of this exploratory project is to leverage resources, community partners, and qualified staff to assess the social, economic, and legal impacts, as well as gain insight, of evidence-based Domestic Violence Courts (DVC). The intention is to create an action plan to implement a DVC in Yellowstone County, should one prove feasible.

### Objectives

- 1) Recruit, hire, and train a qualified staff member who will be responsible for research, identification, and analysis of the feasibility of creating and sustaining a DVC.
- 2) Research evidence-based solutions in creating a DVC by gaining familiarity with economic, social, and legal impacts, as well as successes and failures, of current DVCs.
- 3) Create an implementation plan identifying specific action items needed to create a DVC.

### Project Implementation Plan

- Recruit, hire, and train a qualified Domestic Violence Court Coordinator (DVCC).
- Explore and investigate- Identify, evaluate, and examine processes of current DVCs, while analyzing the need and impact on the community.
- Research and collaborate with an Advisory Committee and other community partners to determine if a DVC is feasible.

### Evaluation Plan

- A 12-person Advisory Committee will be formed with multi-disciplinary representatives.
- A core group of five Advisory members will be selected as the Advisory board.
- Advisory Committee meetings will be held to ensure goals are being met in the timeframe noted.
- The Advisory Board will assist the DVCC in making final recommendations and carrying forward the implementation plan, if seen fit.

### Collaboration Plan

- Leverage the resources of community partners to determine if the goal of creating a DVC is cost effective, provides evidence-based outcome measures, and reduces recidivism.
- The 12 person-advisory Committee and the 5-member Board will determine if a DVC will positively impact the ability for offenders and victims to navigate the criminal and civil process more cohesively.

### Sustainability Plan

- Research and identify the barriers to effective DV intervention strategies and provide training where available.
- Lay the ground work for the creation of a DVC in Yellowstone County.
- Research funding sources and create a final proposal.

#### Benefits of a Domestic Violence Court<sup>1</sup>

##### Accountability

- Allows better oversight and execution of the abuser's punishment for his or her acts of domestic violence
- Greater availability of mechanisms to hold batterers accountable for the abuse

##### Consistency

- Enhanced coordination of cases and consistent orders in different cases involving the same parties
- More consistent procedures, treatment of litigants, rulings, and orders

##### Victim Services

- More comprehensive relief for victims at an earlier stage of the judicial process
- Advocacy services encourage victims to establish abuse-free lives

##### Court Benefits

- Can hear and dispose of DV cases much more quickly than the typical judicial process will allow
- Greater understanding by judges of how domestic violence affects victims and their children

<sup>1</sup>Specialization of Domestic Violence Case Management in the Courts: A National Survey By Susan Keilitz 2004 NCJ 1997



# DV Court Toolkit Outline

## ☐ STEP 1: CREATING A COURT PLANNING TEAM

### A. PLANNING TEAM

#### 1. Court-based planning team members can include:

- The designated domestic violence court judge;
- Designated back-up judge;
- Chief clerk and/or administrator of the court(s);
- Law clerk to domestic violence court judge;
- Technology advisor or administrator;
- Chief of security;
- Project coordinator; and
- Designated domestic violence court clerk.

#### 2. Stakeholder planning team members typically include some or all of the following:

- Domestic violence agency representative(s)— both independent and institutional providers;
- Defense bar representative(s);
- Prosecutor representative(s);
- Civil legal service providers, especially those dedicated to representing domestic violence victims;
- Probation officer(s);
- Batterer program representatives; and
- Law enforcement.

3. In addition, the Center for Court Innovation suggests that other community stakeholders— such as substance abuse and mental health providers, Court Appointed Special Advocate (CASA) program staff, and child welfare agencies— be invited to participate in planning activities relevant to their areas of expertise.

### B. WHO IS AT THE TABLE?

1. Understanding each other's roles and responsibilities is a key part of the planning process.

### C. SUBCOMMITTEES

1. In larger jurisdictions, team participants can break into subcommittees to discuss specific areas of planning relevant to their expertise.
2. Smaller planning teams that do not break into subcommittees can use these categories as a guide for discussion.
  - Operations
  - Services
  - Technology
  - Security

## ☐ STEP 2: DATA COLLECTION

### A. GETTING THE NUMBERS

1. What kind of data should be collected?
2. Where is the data stored?
3. Who will collect the data and how? Who will analyze the data?

### B. DOCUMENTING CURRENT PRACTICES

1. How are criminal and civil cases currently processed through the court system(s)?

## ☐ STEP 3: CONDUCTING A SWOT ANALYSIS

- A. A SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis allows the team to examine your court's current approach to domestic violence cases and identify and prioritize areas of policy and practice that might benefit from a specialized domestic violence court project.

## ☐ STEP 4: WHAT FORM WILL YOUR DOMESTIC VIOLENCE COURT TAKE?

### A. WHAT ARE THE GOALS AND MAJOR OBJECTIVES FOR YOUR DOMESTIC VIOLENCE COURT?

- Identifying goals will help define the overall mission and purpose of the court.

### B. WHAT TYPE OF DOMESTIC VIOLENCE COURT IS RIGHT FOR YOUR COMMUNITY?

- Even if you began the process with an idea of what type of domestic violence court your community needs, it is appropriate to reconsider in light of the data.



## ☐ STEP 5: DOCUMENTING YOUR PLAN

### A. WHAT IS A PLANNING DOCUMENT AND WHY IS IT NECESSARY?

- The planning document is the written version of all the policies and procedures developed during the planning process.
- As the planning process continues, additional challenges will arise. The planning document should be a living document that can be updated to reflect needed changes and additions.

### B. PLANNING DOCUMENT CHECKLIST: BASIC INFORMATION TO MEMORIALIZE

- ✓ Mission and goals of the court.
- ✓ A list of planning team and advisory board members and additional stakeholders.
- ✓ The types of cases heard in the specialized court and any court rules/statutes issues to support the creation of the domestic violence court.
- ✓ A staffing plan for the court, delineating additional court personnel needs, and job descriptions of proposed additional staff. The plan should identify existing court and stakeholder agency staff who may perform some additional functions.
- ✓ An outline of services for victims including who will be providing services (both legal and counseling), where services will be provided, and how referrals will be handled.
- ✓ A description of services for defendants/respondents including who will be providing legal services for defendants or respondents, what mandated programs are available to the court, and how referrals will be handled.
- ✓ The name of the presiding judge and a back-up judge for the domestic violence court.
- ✓ The trainings on domestic violence dynamics and law that the presiding judge, back-up judge, and relevant court staff will attend in preparation for opening the domestic violence court.
- ✓ Whether the court is handling civil protection orders, policies concerning full faith and credit requirements, firearms, and other strategies.
- ✓ The plan for judicial monitoring of defendants/respondents/offenders, including those mandated to programs and under orders of protection. This might include the referral process, reporting requirements, a liaison from each program to the domestic violence court, proposed scheduling of court appearances, and a sanctioning plan in cases of failure to comply.

- ✓ The physical space plan that includes secure space for domestic violence victims, space for on-site services, and additional back-office space for other court personnel. Additional court security plans should also be included.
- ✓ The technology to be used, including who will use it and for what purpose.
- ✓ The types of evaluation the project will be subject to and who is responsible for overseeing.

## ☐ STEP 6: CASELOAD ANALYSIS

### A. GUIDELINES FOR CONDUCTING A CASELOAD ANALYSIS

1. In an effort to accurately measure the potential workload, your planning team will need to conduct a careful review and analysis of cases eligible for adjudication in the domestic violence court. During this process, the planning team can help ensure that all eligible cases will be properly identified and transferred to the new court.
2. One way to understand your caseload is to create a Caseload Analysis. A Caseload Analysis can be performed for criminal, civil, or multi-jurisdictional court projects. This will help you determine how often your court project will need to operate, what the staffing needs will be, and what impact the project will have on stakeholder agencies.

## ☐ STEP 7: CASE IDENTIFICATION AND TRANSFER

### A. CASE IDENTIFICATION

1. Case identification is the process of flagging civil or criminal domestic violence cases as potentially eligible for transfer to the specialized court according to the parameters you have chosen.
2. Once you have determined which cases will be handled in the specialized court—for example, civil protection orders, criminal cases, or both—you will need to establish how they are screened and identified as eligible. You will also need to determine who will carry out screening and identification activities.

### B. CASE TRANSFER

1. In addition to developing protocols for the identification of eligible cases, it is helpful to create procedures to ensure eligible cases are moved at the earliest possible stage to the domestic violence court.
2. It is important to identify and document who will be responsible for case identification, screening and transfer of cases.

## ☐ STEP 8: JUDICIAL MONITORING

**A. WHAT IS IT AND HOW CAN YOUR COURT SUCCESSFULLY IMPLEMENT IT?**

1. Judicial compliance reviews can ensure supervision of offenders' compliance with court-mandated conditions such as restraining orders, probation conditions, and batterer program attendance.
2. Judicial compliance reviews are central to promoting accountability. The success of monitoring and the compliance calendar is dependent upon timely reporting and information sharing between stakeholders and the court. In particular, the planning team will want to:
  - Establish guidelines for consistency in reports to the court regarding program compliance for all agencies who provide mandated programming;
  - Ensure that programs have clear compliance rules;
  - Designate court staff responsible for gathering reports and an easily accessible area to store these reports;
  - Create standard reporting forms for program agencies;
  - Establish general frequency of compliance appearances and determine if agencies providing mandated services can appear in court as well;
  - Consider sanctions that may be appropriate for non-compliance other than new criminal behavior;
  - Formalize the role of local stakeholders in monitoring compliance, possibly in addition to judicial monitoring (i.e. probation); and
  - Establish protocols for probation violation hearings.

**☐ STEP 9: ENSURING VICTIM SAFETY IN THE COURTHOUSE**

**A. Below are some suggestions for creating a safe and secure courthouse environment for victims:**

- Sufficient security personnel who are well trained in the area of domestic violence and can identify and respond to potentially volatile situations.
- Protocols for court staff (including clerks, security and interpreters) assigned to the domestic violence court specifying if staff will be dedicated or rotating.
- Protocols for the timing of litigants arriving to and departing from court.
- A printed calendar for security and court staff to ensure identification of all litigants.
- Domestic violence training for all court staff.



- Clear and visible signs posted to direct litigants to needed services in all relevant languages.
- A clearly marked information desk or central location for public inquiries with an ability to respond to those with limited English proficiency.
- Readily available information regarding the domestic violence court as well as on-site and off-site services.
- A safe waiting area for victims of domestic violence and their children that is staffed with an advocate who can direct them to services.
- A safe space available for reception and a children's play area.
- A separate space for defendants/ respondents/offenders to avoid contact with victims, including separate waiting and attorney conferencing areas.
- A case management system that ensures confidentiality and case integrity.

#### ☐ **STEP 10: STAFFING**

##### **A. Examples of staffing considerations include:**

- Case identification and screening;
- Database management;
- Security;
- Compliance monitoring, including re-source gathering, stakeholders needed, program referral, and sharing information with judges; and
- Calendar call

#### ☐ **STEP 11: TECHNOLOGY**

- Technology can play an important role in enhancing court operations and can significantly increase a judge's ability to make informed decisions. Planning teams will want to research all of the technology applications currently being used by the court to determine whether or not these systems have specialized identifiers for domestic violence cases. These identifiers can assist in streamlining the transfer of cases into a specialized court and tracking outcomes.
- In addition, teams may want to investigate whether or not their state has access to a statewide database/registry of all orders of protection and how local orders are added to the registry. This type of registry will prove to be very useful for your specialized domestic violence court when personnel need to determine the history of violence in a particular case.

#### ☐ **STEP 12: STAKEHOLDER INVOLVEMENT**

- A. A clear understanding of your community's resources will enable you to develop protocols with stakeholder agencies to outline each agency's role regarding victim service referrals and defendant program mandates.

1. FRONTLOADED VICTIM SERVICES

- Early linkage to services for victims helps to promote safety for the victim and her children.

2. LEGAL REPRESENTATION FOR LITIGANTS

- Early linkage to services for victims helps to It is important to identify potential sources of legal representation for the parties that come before your court, including public defender organizations, legal services and non-profit teams, lawyers for children, and the private bar.

3. OTHER COMMUNITY AGENCIES

- Establishing liaisons with all stakeholders for victim service provision and offender accountability including agencies that serve older, disabled, and diverse communities;
- Establishing protocols between these agencies and the court;
- Instituting cross-training programs;
- Providing a schedule for regular, ongoing stakeholder meetings; and
- Planning for the involvement of judges and court staff in outreach and training opportunities.

☐ STEP 13 TRAINING

- A. Understanding the dynamics of domestic violence, emerging research, and national best practices is crucial to ensuring the ongoing success of your court project. Integrating training on these topics into your planning.

1. JUDICIAL TRAINING

- An informed judiciary is vital to the efficacy of all domestic violence court models.

2. LOCAL TRAININGS

- Planning teams can take a leadership role to help engage and educate court staff, court stakeholders, and the community at large about domestic violence.

### 3. NON-JUDICIAL PERSONNEL, INCLUDING COURT STAFF AND SECURITY

- Knowledge of the unique dynamics of domestic violence among court and court stakeholder staff is essential to creating an effective court.

#### ☐ STEP 14: EVALUATION

- A. Your planning team will want to monitor and assess the performance of the domestic violence court once it has been implemented. A formal independent evaluation of your project's implementation and impacts can assess recidivism, victim services, offender compliance with court orders, and other outcomes.

#### ☐ STEP 15: SUSTAINING COLLABORATION

- A. Continued communication among stakeholder agencies will help to encourage ongoing interagency cooperation and elicit helpful feedback regarding your court project's performance.



## TYPES OF DOMESTIC VIOLENCE COURT, JURISDICTION, AND GUIDING PRINCIPLES

TYPE OF COURT	JURISDICTION	GUIDING PRINCIPLES
One-family/one-judge multi-jurisdictional domestic violence court	<ul style="list-style-type: none"> <li>• Criminal domestic violence cases, misdemeanor and/or felony;</li> <li>• Family law matters, including divorce, custody, child support, paternity;</li> <li>• Civil protection orders;</li> <li>• Child protective and juvenile justice matters if related.</li> </ul>	<ul style="list-style-type: none"> <li>• Encourage informed judicial decision-making based on comprehensive and current information on issues involving the family.</li> <li>• Maintain due process and confidentiality protections.</li> <li>• Ensure consistent handling of all matters relating to the same family.</li> <li>• Ensure court staff and presiding judge are trained on domestic violence issues.</li> <li>• Improve victim safety through the elimination of conflicting orders and careful monitoring of offender compliance.</li> <li>• Increase efficient use of court resources, with reduced numbers of appearances and speedier dispositions through consolidation of operations into one courtroom.</li> <li>• Ensure linkage to social services and other resources to address the needs of family members.</li> <li>• Improve collaboration among criminal justice stakeholders, child welfare agencies, and community-based groups offering assistance to domestic violence victims and their children.</li> <li>• Increase confidence in the court system by reducing inefficiency for litigants.</li> </ul>
Criminal domestic violence court	<p>Ordinance-level, misdemeanor and/or felony criminal cases involving an adult defendant and adult victim involved in an intimate relationship, including:</p> <ul style="list-style-type: none"> <li>• Persons legally married to one another;</li> <li>• Persons formerly married to one another;</li> <li>• Persons who have a child in common, regardless of whether such persons have been married or have lived together at any time;</li> <li>• Persons currently or formerly involved in a intimate relationship, including dating partners and same sex couples;</li> <li>• Elder abuse by family member or caretaker.</li> </ul>	<ul style="list-style-type: none"> <li>• Encourage informed judicial decision-making based on comprehensive and current information.</li> <li>• Ensure a consistent criminal justice system response to domestic violence by having a single presiding judge.</li> <li>• Improve victim safety by frontloading services and increasing communication with other courts.</li> <li>• Increase offender accountability by ensuring ongoing monitoring of compliance.</li> <li>• Improve the community's response to domestic violence by linking the court with criminal justice system stakeholders such as probation, the district attorney's office, the defense bar, community-based social services, and domestic violence advocacy groups.</li> </ul>

<p><b>Civil/Family domestic violence court</b></p>	<ul style="list-style-type: none"> <li>• Cases in which a petitioner/ plaintiff (victim) has filed a civil protection order against an intimate or dating partner;</li> <li>• This type of court may also include related cases involving the petitioner and respondent, such as custody, visitation, and child protective cases;</li> <li>• Guardianship petitions on behalf of elderly victims of domestic violence.</li> </ul>	<ul style="list-style-type: none"> <li>• Enhance judicial decision-making by increasing the information readily available to judges.</li> <li>• Ensure a consistent response to domestic violence by assigning a single presiding judge.</li> <li>• Improve victim safety by frontloading services and increasing communication with other courts, including criminal courts.</li> <li>• Increase offender accountability by ensuring ongoing monitoring of the respondent's compliance without increasing the burden upon the petitioner.</li> <li>• Improve the community's response to domestic violence by linking family court with criminal justice stakeholders, community-based social services, and domestic violence advocacy groups.</li> </ul>
<p><b>Juvenile domestic violence court</b></p>	<ul style="list-style-type: none"> <li>• Cases in which a petitioner has filed a restraining order/ civil protection order against a juvenile with whom they share, or have shared an intimate relationship, or with whom they have a child in common;</li> <li>• protection order applications between juveniles and their parents and/or caretakers.</li> </ul>	<ul style="list-style-type: none"> <li>• Enhance judicial decision-making by increasing information available to judges.</li> <li>• Ensure a consistent response to juvenile domestic violence perpetrators by having a single presiding judge.</li> <li>• Direct juveniles to age-appropriate programs that are interactive and designed to engage young people.</li> <li>• Frontload social services and other resources to address young victims' needs comprehensively.</li> <li>• Increase offender accountability by ensuring ongoing monitoring of compliance.</li> <li>• Improve community's response to juvenile domestic violence by linking court with youth-serving community-based social service providers and domestic violence advocacy groups.</li> </ul>



## What makes a Domestic Violence Court work?

### **A. The Building blocks of a successful domestic violence court**

#### **1. Victim Services**

- a. Provide victims with immediate access to advocates
  - i. Victim safety is the true cornerstone of domestic violence courts.
  - ii. Victim advocacy should include long-term services as well as access to counseling, job training, immigration services, child services, and other self-sufficiency programs.
  - iii. A victim should remain paired with their advocate throughout the pendency of the case.
- b. "Frontload" social services
  - i. Studies have shown that when victims receive assistance early in the court process, they are much more likely to remain engaged in their cases.
- c. Keep victims informed
  - i. Advocates should provide victims with up-to-date information on their cases.
  - ii. This reduces the burden on the victim to constantly reappear in court to find out the status of their case, and ultimately reduces their chances of being placed in further danger.
- d. Schedule cases promptly
  - i. Another way to enhance victim safety is to schedule domestic violence cases promptly so that victims can get an order of protection quickly.
- e. Create "safe places" within the courthouse
  - i. Court planners should recognize the need for victim safety and provide security and comfort for victims accordingly.
  - ii. Design elements can include providing private space to speak with advocates and separate waiting areas near the victim services office.

#### **2. Judicial Monitoring**

- a. Assign a permanent judge
  - i. Assigning a single judge to handle criminal domestic violence cases from arraignment through sentence and compliance helps ensure consistency.
  - ii. Having a single judge preside from the beginning to the end of a case also helps the judge make more informed decisions.
- b. Supervise defendants continuously
  - i. Domestic violence courts should use intensive judicial supervision from arraignment through disposition.
- c. Explore new methods of judicial monitoring
  - i. Courts should always look for ways to enhance judicial monitoring.
  - ii. Curfews, phone check-ins, and ankle monitors are all techniques that courts have explored.
- d. Dedicate additional staff and resources for monitoring
  - i. Judges can't do it alone.

- ii. In New York's domestic violence courts, judges rely on case managers to keep track of victim need and violations by defendants.
    - e. Create a separate compliance docket if there is high volume
      - i. Particularly in busy courthouses, it may make sense to create a separate "compliance courtroom" in which a judge is assigned to monitor offenders' compliance after imposition of the sentence.
      - ii. The compliance judge can quickly identify violations and refer the case back to the sentencing judge as necessary.
  - 3. Accountability
    - a. Build strong relationships with service providers
      - i. Strong relationships with service providers, such as batterers intervention programs and substance abuse treatment providers, ensure that when a defendant is noncompliant, the court is notified right away and can act accordingly.
    - b. Hold batterers programs accountable
      - i. Judges and case managers should research local batterers programs to determine which ones will reinforce the court's message to defendants.
      - ii. Additionally, the court needs to work together with batterers programs so that they know what they have to tell the court and why.
    - c. Think creatively
      - i. In Queens, the domestic violence court has a representative from a local batterers' intervention program sitting in the courtroom in order to conduct an immediate intake for each sentenced offender.
      - ii. This process eliminates a step from the process—sending the offender off-site to participate in an assessment interview—and thus improves efficiency and accountability.
    - d. Use technology to enhance access to information
      - i. Computer technology can streamline the information process and ensure that relevant information flows continuously, quickly, and reliably to all dedicated personnel.
  - 4. Coordinated Community Response
    - a. Create strong linkages with a wide range of partners
      - i. Partnerships between the domestic violence court and the many agencies that provide victim assistance/advocacy and defendant monitoring help to strengthen the message to the defendant—and to the community—that domestic violence is not tolerated.
    - b. Convene regular meetings with criminal justice and social service partners
      - i. Interagency collaboration is crucial to ensuring communication, consistency, and continuing education about the court and domestic violence.
    - c. Provide court personnel and partners with domestic violence education and training
      - i. Domestic violence courts can continually educate and update staff and partners by scheduling regular court-sponsored trainings.

## **B. Obstacles**

### **1. Defense objections**

- a. Defense counsel opposition often focuses on the court's use of intensive judicial monitoring and predisposition conditions of release.
  - i. Planners can help address this issue by including defense counsel in all aspects of court development and implementation.

### **2. Judicial objections**

- a. Judges may feel that their involvement in a specialized court will compromise their objectivity.
  - i. New York Chief Judge Judith S. Kaye has mandated that all judges that hear family-related cases participate in domestic violence training.

### **3. Partner objections**

- a. Criminal justice professionals (i.e., attorneys, police, probation officers) may claim with good reason that they are too short-staffed to provide additional scrutiny to domestic violence cases.
  - i. Arranging for a site visit to an operational court can help mollify these concerns.
  - ii. Agencies with experience working with domestic violence courts in New York have often found that their additional efforts pay off in savings down the road.

### **4. "Burnout"**

- a. Burnout is a widespread problem for professionals who work with domestic violence victims and perpetrators.
  - i. Domestic violence courts should not be shy about seeking out professional assistance, providing staff with the tools they need to prevent "secondary trauma."



# Early Resolution and Mediation Project (E-RAMP)

## PILOT PROGRAM SUMMARY REPORT

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### Introduction

The Early Resolution and Mediation Project (E-RAMP), working in partnership with E-RAMP qualified volunteer mediators and local courts, court-connected, no-cost mediation service to program qualified parties unable to pay for mediation services. The goals of E-RAMP are to: provide parties a path to mediation for self-determined, early resolution of parenting disputes; to facilitate early District Court case management and efficiencies; to produce greater likelihood of compliance with agreements; and to provide *pro bono* opportunities to volunteer attorneys and mediators.

E-RAMP *preliminary* criteria requires two self-representing parties with an active court case involving children (new or reopened parenting plan only or dissolution with parenting plan actions.) Only cases meeting financial eligibility and without self-reported history of domestic violence are eligible for E-RAMP mediation referral.

A committee<sup>1</sup> of 17 with wide representation of the legal and mediation communities worked for 16 months outlining program parameters and developing E-RAMP Standards and Guidelines. The success of E-RAMP is anchored in the experience, diligence, and participation of these Committee members. The program gratefully acknowledges the time, expertise, insight, and dedication of Art and Kitty Lusse providing the invaluable training *pro bono* and for the continued program support.

### 11<sup>th</sup> Judicial District Pilot Project

The 11<sup>th</sup> Judicial District Court (Flathead County) hosted the E-RAMP Pilot Project commencing in November 2018 and adopted the 11<sup>th</sup> Judicial District E-RAMP Standards and Guidelines.<sup>2</sup> The 11<sup>th</sup> Judicial District Court judges, District Court Clerk Peg Allison (and staff), Self-Help Law Center Facilitator Linda Frank, and Court Administrator Devin Kuntz were critically essential to launching and sustaining the Project and should be highly commended for their efforts.

Prior to the launch of the Pilot, the Montana Supreme Court Statewide Pro Bono Program hosted a full-day mediation focused on facilitative mediation style (as provided in the Standards and Guidelines.) Required training also included an additional eight hours of online learning specific to child development, domestic violence, and parenting plan development. The current roster of E-RAMP eligible attorney mediator volunteers is 24. Without volunteer mediators,

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<sup>1</sup> See Committee membership list at Tab 1

<sup>2</sup> See 11<sup>th</sup> Judicial District Standards and Guidelines at Tab 2

there would be no program, and are therefore the single most important element to any successful E-RAMP styled program.

It is important to note that results in this Summary Report are provided as statistics. Child-informed mediation is a core value of an E-RAMP styled program. The positive impact of accessing early mediation has significant qualitative measure during and long after the court case has been resolved to the parties, the children, and the communities in which they live.

### **Pilot Project Referrals and Statistics**

Based on calculations from a 60-day sample of domestic relations court filings, compared to E-RAMP referrals, dissolutions with a parenting plan or parenting plan only actions, approximately 20% of court filings involve two self-representing parties.

**56 cases** were referred to E-RAMP during the pilot period (excluding cases that were discovered later not to meet preliminary criteria.)

#### **28 cases (50%) were E-RAMP eligible<sup>3</sup>**

- **18** eligible cases mediated to **full settle** (86% of mediated cases)
- **1** eligible case mediated to **partial settle** (5% of mediated cases)
- **3** eligible cases **did not result in settlement on mediation day** (10% of mediated cases)
- **2** eligible cases one party a **no-show on mediation day**
- **1** eligible case found an outside faith-based mediator
- **2** eligible cases are currently scheduled for mediation
- **1** case resolved prior to intake

#### **28 cases (50%) were E-RAMP Ineligible**

- **11** cases ineligible for **self-reported domestic violence** (38% of ineligible and 20% of total)
- **6** cases one or both parties **did not complete intake** (26% of ineligible and 11% of total)<sup>4</sup>
- **9** cases one party was financially ineligible (31% of ineligible and 16% of total)
- **1** case both parties were financially ineligible (3% of ineligible and 2% of total)
- **1** case discovered both parties were minors

### **Mediated Case Status**

Of the **cases mediated to full settlement, one case has been reopened**. Studies reveal that parties who mediate are more likely satisfied with outcomes and less likely to seek future court

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<sup>3</sup> One case resolved prior to parties completing intake

<sup>4</sup> These cases were early in the pilot year and improved protocols greatly improved intake compliance

intervention. Early introduction of mediation concepts through court-provided educational materials at the initiation allows parties to begin contemplating resolution instead of litigation.

Although meeting the needs of parties and their children remains the primary initiative of E-RAMP, court efficiencies are a valuable element to successful early-intervention mediation programs. Time lapse between the date a case was contested (a response was filed) until **resolution and closure** for fully mediated cases reflects such efficiencies:

- 50% mediated to full settlement in less than 60 days of response
- 39% mediated to full settlement in 60-90 days of response
- 11% mediated to full settlement in 90-120 days of response

In addition, the two cases that did not settle remain open after one year. The case with a partial settle closed within 120 days. Two E-RAMP eligible cases are scheduled for mediation within 60 days of response.

### **Referred but Ineligible Case Status**

The cases referred but not eligible for E-RAMP provide an important comparative analysis for assessing potential impact on court dockets. The time lapse between the date a case was closed (or remains open):

- 17% closed within 60 days of response
- 6% closed within 60-90 days of response
- 23% closed in 9-12 months
- 34% remain open after 6 months

### **Impact on Court Dockets**

Based on calculations from a 60-day sample of domestic relations court filings compared to E-RAMP referrals, dissolutions with a parenting plan or parenting plan only actions, approximately 20% involve two self-representing parties. Based on current eligibility criteria, E-RAMP-involved cases comprise 10% of the court's parenting-plan involved docket.

### **Eligibility and Additional Considerations**

An additional goal of the E-RAMP Committee was the awareness and expansion of mediation services across the state for parties who are not otherwise eligible for a court-connected program. The Pilot Project statistics reveal that approximately 50% of cases meeting preliminary criteria (two self-representing parties with a parenting-involved action) do not meet eligibility requirements. More than one-third of cases were determined ineligible because of reported domestic violence involvement. While DV-involved cases are not appropriate for the facilitative, abbreviated mediation platform employed by E-RAMP, we should study an outside referral mechanism that considers procedural safeguards, advocacy,

modifications, or interventions to allow survivors to self-determine through mediation if they desire.

Early launch of the Pilot experienced moderate noncompliance with E-RAMP Intake (as provided in the Court's E-RAMP Scheduling Order). Subsequent administrative protocols were employed to increase compliance with E-RAMP Intake and reducing the noncompliance rate to less than 5 percent. The court does not exact punitive measures for noncompliance. The primary obstacle for parties was confusion and anxiety. Scheduling Orders contain a litany of instructions. Parties expressed feelings of being overwhelmed. This can be particularly true of people living in poverty who view their court case as a crisis. Attention to party follow-up through email and text with links to the online Intake not only improved Intake compliance rates, but in the attitudes about the court and mediation process.

More than one-third of ineligible cases had only one party financially ineligible. Careful evaluation of circumstances where an otherwise eligible party is prevented from court-connected mediation because the other party is not financially eligible is an important step in expanding mediation. We must be very cognizant of our limited E-RAMP volunteer pool. Programs with no-fee criteria should not be expanded to cases with the ability to pay collectively. Instead, the Committee should examine post-pilot best practices and ethical considerations in referring modest means, single-payer, and fee waiver cases. This includes assessing court-connected referral protocols outside the in-house E-RAMP mediation program.

### **Future Court-Connected Mediation Development**

E-RAMP will be introduced in additional Judicial Districts upon request and mediation awareness and education advanced statewide. In addition, the E-RAMP Committee should be reconvened to examine:

- Expansion of income thresholds for eligible cases
- Development of referral system and mediator availability for financially ineligible cases at reduced fee or partial waiver
- Availability of appropriate and supported mediation for domestic violence survivors wishing to make their own informed, deliberate, autonomous choices about mediation.<sup>5</sup>
- Expansion of mediation education and awareness across the state generally

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<sup>5</sup> E-RAMP utilizes facilitative mediation exclusively (both parties in the same room and focused on facilitating communication toward resolution.) Other mediation methods involving shuttle or separated mediation are more appropriate in cases where a survivor wishes to mediate.

**Montana Supreme Court Access to Justice Commission  
Early Resolution and Mediation Project (E-RAMP)  
Committee Members  
11.16.16**

<b>Name</b>	<b>Affiliation</b>	<b>E-mail</b>
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**EARLY RESOLUTION AND MEDIATION PROJECT (E-RAMP)**  
**STANDARDS and GUIDELINES<sup>1</sup>**  
**11<sup>TH</sup> JUDICIAL DISTRICT COURT**

**Introduction and Guidelines**

The Early Resolution and Mediation Project (**E-RAMP**) 11<sup>TH</sup> Judicial District Court Guidelines and Standards are designed to guide the Court-in administering and evaluating its court-connected mediation program.

E-RAMP, working in partnership with E-RAMP qualified volunteer mediators, provides cost-free mediation services to those who are unable to pay for such services, extending limited resources and providing greater access to early resolution of parenting disputes. The Court recognizes that parties who reach agreement on their own are generally more satisfied with the outcome and more likely to follow through and comply with its terms as compared to those whose settlements are imposed by a third-party decision-maker. This is of great benefit to the parties, their children, and the Court.

**E-RAMP Purpose and Goals**

The purpose and goals of **E-RAMP** are to: provide parties a path to mediation for self-determined, early resolution in parenting disputes; to facilitate early District Court case management; to produce greater likelihood of compliance with agreements; and to provide *pro bono* opportunities to volunteer attorneys and mediators.

**E-RAMP Structure**

**E-RAMP** is designed to poise parties for early resolution by directing select cases to an abbreviated mediation process conducted by volunteer mediators and managed by the Court. The **E-RAMP** program is limited to two self-representing, financially eligible parties in cases involving child custody or visitation without identified domestic violence or child abuse/neglect. Eligibility limitations allow for appropriate use of *pro bono* services; management of volume for limited volunteer resources; recognition of power imbalances and safety considerations for domestic violence survivors and children; and focus of volunteer resources in promoting child-centered conflict resolution.

The program eligibility process, mediation referral, internal case tracking and management, model court pleadings, and forms are outlined in the 11<sup>th</sup> Judicial District E-RAMP Guidelines attached.

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<sup>1</sup> Adapted in part from The Institute of Judicial Administration

## STANDARDS

### 1.0 DEFINITIONS

**Mediation:** Mediation is a term that is used to describe a range of practices designed to help parties in conflict. The **E-RAMP** program defines mediation as a method in which an impartial attorney or mediator helps the parties to communicate and make voluntary, informed choices to resolve their disputes.

**Court-Connected Program:** **E-RAMP** is designed as a court-connected program. A court-connected program is defined as a mediation program or service to which the court refers cases, including a program or service operated by the Court.

### 2.0 MEDIATION METHODS

**2.1 The 11<sup>th</sup> Judicial District E-RAMP-program utilizes, and volunteers are trained in, the facilitative mediation model.**

**Commentary:** Facilitative mediation is a process of resolving the conflicts by meeting the needs of the parties to the greatest degree possible. A facilitative mediator does not provide or impose solutions or provide advice, but rather manages and facilitates the process that allows the parties to generate their own solutions to their conflicts.

### 3.0 ACCESS TO COURT-CONNECTED MEDIATION

**3.1 The 11<sup>th</sup> Judicial District E-RAMP program is made available as broadly as resources allow and to parties who do not have the ability to secure paid mediation services.**

**Commentary:** Limited financial and volunteer resources require **E-RAMP** to limit participation in the court-connected program. Applying a clearly defined financial threshold such as the Order Waiving Fees or financial screening is a primary factor in managing the volume of **E-RAMP** participants and assuring volunteers are assisting parties who could not otherwise pay for services. Parties not eligible for **E-RAMP** should be provided are provided information about resolution through mediation by other mediators, mediation centers, or programs.

**3.2 The 11<sup>th</sup> Judicial District cases with preliminary eligibility are screened through the online E-RAMP Intake Form to determine final program eligibility.**

**Commentary:** Employing the accepted and approved screening tool assures a case and the parties are appropriate for the abbreviated mediation process contemplated in **E-RAMP**. The Court E-RAMP Intake Form screens for: financial eligibility, court-involved child abuse/neglect,

domestic violence, including forms of intimidation and coercion, or a party's inability to negotiate freely and make informed decisions.

**3.3 The 11<sup>th</sup> Judicial District provides self-represented litigants information and resources to facilitate making informed decisions about mediation.**

**Commentary:** A mediator cannot provide the same protections provided by an individual's personal legal advocate. Without legal representation or access to legal information, parties may be vulnerable to pressure to settle or accept unfair results. The Court and the E-RAMP program will provide informative legal information to those participating in the court-connected program prior to any scheduled mediation.

**4.0 COURT'S RESPONSIBILITY FOR A COURT-CONNECTED MEDIATION PROGRAM**

**4.1 The court is responsible for monitoring its court-connected mediation program.**

**Commentary:** The 11<sup>th</sup> Judicial District Court is responsible for monitoring its court-connected mediation program. These responsibilities include determining qualifications of program mediators and adopting program criteria, structure, and procedures.

**4.2 The court is not responsible for monitoring private mediation programs.**

**Commentary:** The court has no direct responsibility to monitor or evaluate private mediation services or programs, but judges, clerks, and court administrators should be knowledgeable about private programs in the community. The courts should maintain a list of qualified private mediators pursuant to §40-4-306, MCA to which parties who do not qualify for the court-connected mediation program should be referred.

**4.3 Parties referred to the E-RAMP program should have access to a complaint mechanism to address any concerns about the process or mediators participating in the program.**

**Commentary:** The mechanism to accept concerns and complaints from both E-RAMP participating parties and mediators is outlined in the 11<sup>th</sup> Judicial District E-RAMP Guidelines addendum.

**5.0 INFORMATION FOR JUDGES, COURT PERSONNEL AND USERS**

**5.1 The court should provide to the public information about mediation; available programs and resources; potential cost and time savings; and any consequences of participation.**

**Commentary:** Increasing awareness of mediation generally will likely increase the number of litigants voluntarily choosing mediation over litigation and improve acceptance of any anticipated mediation requirements in any particular geographical area. Courts have a vested interest in increasing voluntary participation in mediation.

**5.2 Participants should be educated concerning the E-RAMP program prior to any court-connected participation or referral. Information should include:**

**General Information**

- 1. The purpose of E-RAMP and basis for selecting cases**
- 2. How E-RAMP operates**
- 3. How legal and mediation processes interact**
- 4. The enforcement of agreements**
- 5. Applicable laws and rules concerning parenting and mediation in Montana**
- 6. How mediators are selected/qualifications**
- 7. Intake and screening procedures**
- 8. The potential for savings of money and time**

**Process Information**

- 1. Purpose and type of mediation**
- 2. Confidentiality of process and records**
- 3. Role of the parties and the mediator in the process**
- 4. Voluntary acceptance of an agreement**
- 5. Enforcement of agreements**
- 6. Availability of formal adjudication if parties do not reach agreement**

**Commentary:** At a minimum, the Court provides E-RAMP informational materials about the E-RAMP process and general mediation information at the time the case is referred to E-RAMP Intake. If a case is accepted for court-connected mediation, parties are provided additional information about mediation, parenting plans in Montana, and day-of mediation instructions and information designed to assist parties in preparing for and participating in the mediation process. Materials are outlined in the Guidelines. Providing education and information is particularly critical when referring unrepresented litigants to a court-connected mediation program when the court has a special interest in encouraging or requiring the use of mediation.

## **6.0 QUALIFICATION OF MEDIATORS**

**6.1 Courts have a continuing responsibility in insuring the quality of mediators participating in the court-connected program. In Montana, family law mediation is generally governed by MCA §§ 40-4-307 and 26-1-813. These Standards offer the minimum training and**

experience outlined in the attached Mediator Training Requirements and that otherwise adhere to the state and national standards for family law mediators.

**6.2 Courts are responsible for assuring the mediators who participate in the court-connected program are qualified.**

**Commentary:** Assuring that court-connected mediation programs and services are of high quality is of special concern when parties are referred to a particular program or to a roster maintained by the court. No distinction should be made between the qualifications of a *pro bono* mediator or a mediator who provides for-pay services.

**7.0 ETHICAL STANDARDS FOR MEDIATORS**

**7.1 The 11<sup>th</sup> Judicial District adopts the Mediator Qualifications, Education, and Training included as an addendum to these Standards and Guidelines, which address the following:**

- a. Impartiality
- b. Conflict of Interest
- c. Advertising by Mediators
- d. Confidentiality
- e. Role of Mediators in Settlement

**Commentary:** According to the Mediator Qualifications, Education, and Training, E-RAMP volunteer attorney mediators must also rely on the ABA Model Standards of Conduct for Mediators. Ethical standards are intended to guide the conduct of E-RAMP mediators, and to promote public confidence in the mediation process and the courts.

**8.0 INAPPROPRIATE PRESSURE TO SETTLE**

**8.1 The 11<sup>th</sup> Judicial District E-RAMP program employs a process at the time of Intake and during a subsequent hearing or conference to permit parties to opt out of mediation.**

**Commentary:** Ensuring fairness of the mediation process requires that both courts and mediators protect the parties' ability to make free and informed choices about reaching an agreement in a case. The Court's intake and referral system includes opt-out provisions to protect against inappropriate pressure to reach an agreement or impair a litigant's ability to protect their own interests. This is especially true in cases wherein there is reason to suspect domestic violence. See MCA §40-4-301(2).

**8.2 The 11<sup>th</sup> Judicial District provides parties with information about the court-connected program prior to the Intake process, including the fact that they are not required to settle.**

**Commentary:** Inadequate information may lead parties to believe they must participate in the program or reach an agreement in mediation. At a minimum, litigants should be informed at the beginning of the process that they need not participate, mediator has no authority to impose a solution, and that no adverse consequences will be imposed as a result of their nonparticipation or inability to reach an agreement.

**8.3 There is no adverse response by the courts concerning the parties' nonparticipation and inability to reach an agreement.**

**Commentary:** Nonparticipation and the inability to reach an agreement during mediation will not adversely affect the parties' treatment by the court. The Court takes special care to avoid drawing inferences regarding the reasons parties did not participate or a case did not reach agreement. Likewise, in the latter scenario, the mediator shall not offer a suggestion regarding the best outcome of the case. Concern about subsequent actions by the court may lead parties to reach an agreement involuntarily.

**9.0 COMMUNICATIONS BETWEEN MEDIATORS AND THE COURT**

**9.1 During or subsequent to the court-connected mediation, the judge or other trier of fact should be informed only of the following:**

- a. Failure of a party to comply with any order to attend mediation
- b. Request by the parties for additional time to complete the mediation
- c. If the parties agree, any procedural action by the court that would facilitate the mediation; and
- d. Mediator's assessment that the case is appropriate for mediation

**Commentary:** The purpose of this standard is to insulate the mediator from the court during mediation and, except for reports of violations of any court orders, to keep from the judge who may be involved in a future trial of the case, any information about the substance of the mediation. Any mediator assessment of the inappropriateness of a particular case for mediation should be conveyed to the court without elaboration.

**9.2 When the mediation is concluded, the court should be informed of the following:**

- a. If the parties do not reach an agreement, the mediator should impasse to the court without comment or recommendation.
- b. If agreement is reached, any requirement that its terms be reported to the court should be consistent with the jurisdiction's policies governing settlements in general.

- c. **With the consent of the parties, the mediator's report also may identify any pending motions or outstanding legal issues.**

**Commentary:** Although communications between the mediator and the judge who may try the case should be discouraged, these Standards are not intended to preclude discussions with administrative staff responsible for the court-connected mediation program or reports to the court designed to permit monitoring of the quality of mediation services.

## **10.0 ENFORCEABILITY OF MEDIATED AGREEMENTS**

### **10.1 Agreements reached through court-connected mediation should be enforceable to the same extent as agreements reached without a mediator.**

**Commentary:** To avoid creating a second-class status for court-connected mediation programs, E-RAMP will not impose any additional provisions or requirements to any agreement reached through participation in the court-connected program.

## **11.0 EVALUATION**

### **11.1 Courts should ensure that court-connected mediation programs are monitored on an ongoing basis and evaluated on a periodic basis.**

**Commentary:** The E-RAMP program is monitored internally to assure the program is operating as intended and whether the procedures are implemented successfully. The primary purpose of evaluations or assessments is in ensuring the quality of the program.

### **11.2 The E-RAMP program collects sufficient, accurate information to allow adequate monitoring and evaluation of the program.**

**Commentary:** E-RAMP collects basic information and data to determine effectiveness of a its court-connected program. This information includes whether an agreement was reached, whether it was partial or complete resolution of a case, and the types of issues that were resolved (or unresolved). The program data is collected from the public court file, the parties themselves and includes demographic data and experience with the court-connected mediation. The program also collects information about mediator experiences and suggestions for improvement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Hon. Robert B. Allison

\_\_\_\_\_  
Hon. Amy Eddy

\_\_\_\_\_  
Hon. Heidi J. Ulbricht

\_\_\_\_\_  
Hon. Dan Wilson



**EARLY RESOLUTION AND MEDIATION PROJECT (E-RAMP)**  
**GUIDELINES ADDENDUM**  
**11<sup>TH</sup> JUDICIAL DISTRICT COURT**

**1. Preliminary E-RAMP Qualification and Intake**

The Court or someone designated by the Court will identify domestic relations cases **involving parenting of minor children**, including **parenting plan actions only, or dissolutions with parenting plans** wherein both parties are self-representing. **include two self-representing parties.** Eligible cases include new and reopened actions. Dissolution-only cases and court-involved abuse and neglect cases are *not* eligible for E-RAMP.

The Court will issue an Order to include language instructing both parties to a preliminarily qualified case to complete the E-RAMP Intake. Sample instructive language:

*This matter may qualify for the Court's Early Resolution and Mediation Program (known as E-RAMP). A brochure describing E-RAMP is enclosed. E-RAMP gives the parties the opportunity to mediate this dispute with a trained mediator and avoid prolonged litigation. There is no cost to eligible parties to participate in the program. To take advantage of E-RAMP, within 14 days of the date of this Order, both parties must go to <https://eramp.mt.gov> to complete the intake process to determine case and financial eligibility.*

The provided brochure is included as Attachment 1.

**2. The Intake Process and Eligibility**

E-RAMP eligibility is determined through an online intake process. (Attachment 2). The intake form is intuitive and uses logic in providing necessary questions and available responses. For example, a party with a court fee waiver is not prompted to complete income and asset information. If parties do not have a fee waiver or receive public assistance, household income must be less than 150% of the current federal poverty level. Both parties must qualify to be E-RAMP eligible.

Parties are also screened for Orders of Protection and self-identified domestic violence or abuse. Cases involving domestic violence or abuse are not appropriate for E-RAMP styled mediation.

**3. Notification of Eligibility and Mediation Order**

The E-RAMP Administrator or someone designated by the Court will receive notification of Eligibility and shall file with the Court a **Notice of Eligibility**. (Attachment 3). The Clerk of Court will categorize eligible cases as **E-RAMP** in the court management system to facilitate case

tracking and E-RAMP mediation referral. **Non-eligible cases will remain undesignated and process in regular course.**

Parties are notified of E-RAMP eligibility during a subsequent status hearing. Without objection by the parties or disqualification by the judge for reasons not previously identified, the judge will set E-RAMP mediation on a one of the predetermined mediation days and times and issue an E-RAMP Mediation Order. **Mediations should be scheduled *at least 14 days from the date of the Order*, allowing sufficient time to schedule an E-RAMP volunteer mediator.**

#### **4. Scheduling of Mediator and Support**

The E-RAMP Administrator or someone designated by the Court will receive a copy of the Mediation Order and recruit a mediator from the list of E-RAMP-qualified and trained mediators maintained by the court.

When a mediator is confirmed, the E-RAMP Administrator shall:

- a. Request the Clerk of Court to email copy of parenting plans filed or lodged in the case to the designated mediator.
- b. Send a letter to the parties confirming the mediation (Attachment 4); and including informative materials about mediation and parenting plans in Montana. (Attachments 5 OR, 6 and 7).
- c. A letter or email to the mediator confirming the scheduled mediation with instructions.
- d. Notification to the presiding judge Judicial Assistant of the date and time of mediation.
- e. Request to Self-Help Law Center staff to prepare a mediator packet and deliver to judicial assistant prior to mediation.

#### **4. Mediation Day**

The E-RAMP Administrator should call or send an email reminder to the parties and the mediator two days prior to mediation.

The court has set aside a jury room to conduct E-RAMP mediations. The room should be equipped with pens and paper; a flip chart and/or grease board; the court file; and the packet of forms provided by the Self-Help Law Center.

At the conclusion of the mediation, the mediator shall provide to the judge or judicial assistant all completed forms. If they parties do not reach agreement, the Mediator will provide a copy of the Mediator's Report.

Any notes or materials not part of the original court file should be destroyed and are not otherwise made part of the court file excepting the Mediator's Report. **A copy of the Mediator's Report shall be provided to the Statewide Pro Bono Coordinator for statewide program record keeping purposes only.**

Parties should complete the online Mediation Evaluation Form, and mediators should complete the online Mediator's Evaluation Form as soon after mediation as possible. Responses are anonymous and used to evaluate the mediation program pursuant to the E-RAMP Standards.

Judges are encouraged to acknowledge volunteer service by the mediator as soon after the mediation as possible.

Cases not resolved at mediation are removed from the E-RAMP case management designation and proceed in normal course.

## **5. Complaint procedure**

The E-RAMP procedure for receiving, investigating, and resolving complaints against an E-RAMP volunteer mediator, or mediators recommended, selected, and appointed by the Court includes:

- a. The court will designate a person who is knowledgeable about mediation to receive and coordinate the review of any inquiries or complaints about the conduct of an E-RAMP mediator.
- b. All procedures for receiving, investigating, and resolving inquiries or complaints about the conduct of mediators is designed to preserve the confidentiality of mediation communications.
- c. All communications, inquiries, complaints, investigations, procedures, deliberations, and decisions about the conduct of an E-RAMP mediator must occur in private and must be kept confidential and may not be open to the public or outside the complaint process.
- d. All inquiries or complaints about an E-RAMP mediator must be submitted in writing to the person designated by the Court and include the Rule or Rules of Conduct alleged to be violated.
- e. A mediator's continued participation in E-RAMP rests solely within the Court's discretion upon review and evaluation of any complaint against the mediator. In determining the validity of a complaint, the Court shall refer to the Qualifications of Mediators and Ethical Standards for Mediators found in the 11<sup>th</sup> Judicial District Early Resolution and Mediation Program Standards and Guidelines.

# Standing Committee on Self-Represented Litigants

Co-Chairs: Ann Goldes-Sheahan & Nolan Harris

## Forms Subcommittee:

Completed Forms:

1. Affidavit for Entry of Decree for Dissolution of Marriage Without Hearing
2. Dissolution Decree without Children
3. Updated Guardianship of Minor Child Packet
4. Probate of Small Estate Packet
5. Quitclaim deed with instructions
6. Notice of Filing
7. Notice to the Court

Pending Approval: Possibly finalize Wednesday, March 11th

1. Dissolution Decree with Children
2. Property Distribution
3. Parenting Plan

Related updates:

Footer for Forms Subcommittee approved forms: **Access to Justice Commission's Self-Represented Litigants Committee**

Translated forms through OCA: Sarah McClain, Derrek Shepherd and I have been drafting formatting guidelines for any translated forms requests. The forms would include both English and the translated language with an emphasis placed on the translated language for the LEP person's benefit.

## Education and Outreach:

Form explanation videos – three to four minute videos created by AmeriCorps

## SCSRL Strategic Planning Takeaways:

Identified priorities after two meetings are:

1. Creation and maintenance of process for resources and forms development (internal structure)
2. Seamless referral system with flow charts (coordination)
3. Explainers: videos, brochures, educational resource for pro se litigants and court staff (SRL-focused).

**Co-Petitioner 1 Parte Demandante 1**

Name *Nombre*

Mailing Address *Dirección Postal*

City *Ciudad* State *Estado* Zip Code *Código Postal*

Phone Number *Número de teléfono*

E-mail Address (optional) *Correo Electrónico (opcional)*

**Co-Petitioner 2 Parte Demandante 2**

Name *Nombre*

Mailing Address *Dirección Postal*

City *Ciudad* State *Estado* Zip Code *Código Postal*

Phone Number *Número de teléfono*

E-mail Address (optional) *Correo Electrónico (opcional)*

**Co-Petitioners appearing without a lawyer**

*Partes Demandantes compareciendo sin abogado*

**MONTANA JUDICIAL DISTRICT COURT, DISTRICT NUMBER**  
**TRIBUNAL JUDICIAL DEL DISTRITO DE MONTANA, NUMERO DEL DISTRITO \_\_\_\_\_,**  
**COUNTY OF**  
**CONDADO DE \_\_\_\_\_.**

In re the Marriage of:  
*Referente al Matrimonio de:*

\_\_\_\_\_,  
Full Name *Nombre Completo,*

And (Y)

\_\_\_\_\_,  
Full Name *Nombre Completo,*

Co-Petitioners.  
*Partes Demandantes.*

**Case No:**

*Número del Caso:* \_\_\_\_\_  
(Provided by the Clerk of Court)  
(Llenado por la Secretaria del Tribunal)

**Joint Petition for**  
*Petición Conjunta para*

**Dissolution of Marriage**  
*Disolución del Matrimonio*

**with Parenting Plan for Minor Children**  
*con Plan de Crianza para Menores*

**1. Jurisdiction.**  
***Jurisdicción.***

- a. **Either spouse meets the residency requirements in §40-4-104, M.C.A.**  
*Cualquiera de los cónyuges cumple con los requisitos de residencia en §40-4-104, M.C.A.*
- b. **For 90 days before filing this case, either spouse lived or was stationed in Montana.**  
*Durante 90 días antes de presentar este caso, cualquiera de los cónyuges tuvo su domicilio o fue destinado en el estado de Montana.*
- c. **Our marriage is irretrievably broken because there is serious marital discord which adversely affects the attitude of one of both parties toward the marriage, and there is no reasonable prospect of reconciliation or we lived separate and apart for at least 180 days before this case was filed.**  
*Nuestro matrimonio fracasó y es irremediable porque hay una discordia seria que afecta de manera adversa la actitud de una o ambas partes hacia el matrimonio y no hay una perspectiva razonable de reconciliación, o que vivimos separados sin cohabitar por lo menos 180 días antes de que se presentara este caso.*
- d. **The Montana Conciliation Law (beginning at §40-3-101, M.C.A.) does not apply in this case.**  
*La Ley de Conciliación de Montana (comenzando en §40-3-101, M.C.A.) no aplica en este caso.*

**2. Co-Petitioner 1 Information:**  
***Información de Parte Demandante 1:***

Name- First: \_\_\_\_\_ Middle: \_\_\_\_\_ Last: \_\_\_\_\_  
*Nombre – Primero: \_\_\_\_\_ Medio: \_\_\_\_\_ Ultimo: \_\_\_\_\_*

E-mail address (optional) *Correo electrónico (opcional):* \_\_\_\_\_

Mailing Address *Dirección Postal:* \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_  
*Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Condado: \_\_\_\_\_*

Physical Address *Dirección física:* \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_  
*Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Condado: \_\_\_\_\_*

Year of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Occupation: \_\_\_\_\_  
*Año de Nacimiento: \_\_\_\_\_ Edad: \_\_\_\_\_ Ocupación: \_\_\_\_\_*

How long has Co-Petitioner 1 lived in this county?  
*¿Cuánto tiempo lleva viviendo en este condado la Parte Demandante 1?* \_\_\_\_\_

How long has Co-Petitioner 1 lived in Montana?  
*¿Cuánto tiempo lleva viviendo en Montana la Parte Demandante 1?* \_\_\_\_\_

**3. Co-Petitioner 2 Information:**

***Información de Parte Demandante 2***

Name- First: \_\_\_\_\_ Middle: \_\_\_\_\_ Last: \_\_\_\_\_  
*Nombre – Primero: \_\_\_\_\_ Medio: \_\_\_\_\_ Ultimo: \_\_\_\_\_*

E-mail address (optional) *Correo electrónico (opcional):* \_\_\_\_\_

Mailing Address *Dirección Postal:* \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_  
*Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Condado: \_\_\_\_\_*

Physical Address *Dirección física:* \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_  
*Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Condado: \_\_\_\_\_*

Year of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Occupation: \_\_\_\_\_  
*Año de Nacimiento: \_\_\_\_\_ Edad: \_\_\_\_\_ Ocupación: \_\_\_\_\_*

How long has Co-Petitioner 1 lived in this county?  
*¿Cuánto tiempo lleva viviendo en este condado la Parte Demandante 1? \_\_\_\_\_*

How long has Co-Petitioner 2 lived in Montana?  
*¿Cuánto tiempo lleva viviendo en Montana la Parte Demandante 2? \_\_\_\_\_*

**4. Your marriage. (Choose one.)**

***Su matrimonio. (Elija uno.)***

We were married on (date)

☐ *Nos casamos la (fecha) \_\_\_\_\_.*

We filed our marriage license in the County of \_\_\_\_\_, State of \_\_\_\_\_  
*La licencia matrimonial fue registrada en el Condado de \_\_\_\_\_, Estado de \_\_\_\_\_.*

**OR (O)**

We were married at common law as of (date) \_\_\_\_\_.

☐ *Las partes se casaron en derecho consuetudinario desde (fecha) \_\_\_\_\_.*

We assumed a marital relationship by mutual consent and agreement.

*Las partes asumieron una relación matrimonial por consentimiento mutuo y acordado.*

We confirmed our marriage by living together and by public knowledge.

*Las partes confirmaron su matrimonio por vivir juntos y por conocimiento público.*

**OR (O)**

We filed a declaration of marriage on (date) \_\_\_\_\_.

☐ *Las partes presentaron una declaración de matrimonio el (fecha) \_\_\_\_\_.*

in the County of \_\_\_\_\_, State of \_\_\_\_\_  
*en el Condado de \_\_\_\_\_, Estado de \_\_\_\_\_.*

**5. Separation. (Choose one.)**  
**Separación. (Elija uno.)**

We physically separated on (date)

☐ *Nos separamos físicamente el (fecha) \_\_\_\_\_.*

**OR (O)**

We have not yet physically separated.

☐ *Aún no nos hemos separado físicamente.*

**6. Pregnancy. (Choose one.)**  
**Embarazo. (Elija uno.)**

The wife is not pregnant.

☐ *La esposa no está embarazada.*

**OR (O)**

The wife is pregnant and the husband is the father.

☐ *La esposa está embarazada y el esposo es el padre.*

**OR (O)**

The wife is pregnant and is unsure who the father is.

☐ *La esposa está embarazada y no está segura de quién es el padre.*

**OR (O)**

The wife is pregnant and the husband is not the father.

☐ *La esposa está embarazada y el esposo no es el padre.*

**Notice:** A parenting plan must be filed after the child is born if the wife is pregnant and the husband is the father or the father is not known.

**Aviso:** *Un plan de crianza debe ser presentado después de que el niño nazca si la esposa está embarazada y el esposo es el padre o el padre es desconocido.*

**7. Minor children of the marriage, including those born to or adopted by both parties.**

***Todos los niños menores del matrimonio, incluyendo los niños propios o los adoptados por ambas partes.***

Name <i>Nombre</i>	Age <i>Edad</i>	Birth Year <i>Año de Nacimiento</i>	Minor primarily lives with: <i>El menor vive principalmente con:</i>			
			Mother <input type="checkbox"/> <i>Madre</i>	Father <input type="checkbox"/> <i>Padre</i>	Both <input type="checkbox"/> <i>Ambos</i>	Other <input type="checkbox"/> <i>Otro</i>
			Mother <input type="checkbox"/> <i>Madre</i>	Father <input type="checkbox"/> <i>Padre</i>	Both <input type="checkbox"/> <i>Ambos</i>	Other <input type="checkbox"/> <i>Otro</i>
			Mother <input type="checkbox"/> <i>Madre</i>	Father <input type="checkbox"/> <i>Padre</i>	Both <input type="checkbox"/> <i>Ambos</i>	Other <input type="checkbox"/> <i>Otro</i>
			Mother <input type="checkbox"/> <i>Madre</i>	Father <input type="checkbox"/> <i>Padre</i>	Both <input type="checkbox"/> <i>Ambos</i>	Other <input type="checkbox"/> <i>Otro</i>



			Mother <input type="checkbox"/> <i>Madre</i>	Father <input type="checkbox"/> <i>Padre</i>	Both <input type="checkbox"/> <i>Ambos</i>	Other <input type="checkbox"/> <i>Otro</i>
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We have more minor children. (Fill out **MP-113-B** and paper clip it to this document.)

- ☐ *Tenemos más niños menores de edad. (Rellene **MP-113-B** y adjúntelo con un sujetapapeles a este documento.)*

## 8. Child(ren) residence(s).

### **Residencias de los niños.**

State law requires this information. You can find this law at § 40-7-110, M.C.A. Start with the children's current address and complete for the past 5 years. If you don't know the current address, write "not known" next to their name.

*La ley del estado requiere esta información. La ley se encuentra en § 40-7-110, M.C.A. Empiece con la dirección actual de los niños y proporcione por los últimos 5 años. Si no sabe la dirección actual escriba "no se sabe" al lado de su nombre.*

Children's Names <i>Nombres de los Niños</i>	Address <i>Dirección</i>	Starting MM/YY <i>Empezando MES/AÑO</i>	Ending MM/YY <i>Terminando MES/AÑO</i>	List all people living at this location, their relationship with child, and current address. <i>Indique todas las personas que viven en esta ubicación, su relación con los niños, y su dirección actual.</i>
			Still lives here <i>Aún vive aquí.</i>	

There are more residences. (Fill out and paper clip Form **MP-113-C** to this document.)

- ☐ *Hay más residencias. (Rellene **MP-113-C** y adjuntarlo con un sujetapapeles a este documento.)*

**9. Jurisdiction of the children. (Choose the most accurate description.)**

***Jurisdicción de los niños. (Elija la descripción más adecuada.)***

Our child(ren) lived in Montana for at least 6 consecutive months immediately before this case was filed. This makes Montana our child(ren)'s home state. If a child(ren) is less than 6 months old, he or she lived in Montana since birth.

- ☐ *Nuestros niños vivieron en Montana por lo menos durante 6 meses consecutivos antes de la presentación de este caso. Esto hace que Montana sea el estado de residencia de los niños. Si los niños tienen menos de 6 meses de edad, ellos vivieron en Montana desde su nacimiento.*

**OR (O)**

Montana was the home state of the child(ren) within six months of this case being filed, and one parent continues to reside in Montana.

- ☐ *Montana es el estado nativo de los niños dentro de los seis meses posteriores a la presentación de este caso, y uno de los padres continúa viviendo en Montana.*

**OR (O)**

The child(ren) and one parent have significant connections with Montana and substantial evidence about them is in Montana.

- ☐ *Los niños y uno de los padres tienen nexos significativos con Montana y hay evidencia substancial sobre ellos en Montana.*

**OR (O)**

The child(ren) are physically present in Montana and have been abandoned, the child(ren) are with a caretaker relative who was given custody, or an emergency exists requiring the child(ren)'s protection.

- ☐ *Los niños están presentes físicamente en Montana y han sido abandonados, los niños están con un cuidador de la familia a quien le fue dada custodia, o existe una emergencia que requiere que los niños tengan protección.*

**OR (O)**

No other state has jurisdiction over the child(ren) or the other state has declined jurisdiction over the children.

- ☐ *No hay otro estado que tenga jurisdicción sobre los menores o el estado ha rechazado jurisdicción sobre los niños.*

**10. Other Court Cases. (Choose One.)**

***Otros Casos del Tribunal. Elija Uno.***

State law requires this information. You can find this law at § 40-7-110, M.C.A.

*La ley estatal requiere esta información. Esta ley se encuentra en § 40-7-110, M.C.A.*

We don't know of any other court case that could affect this one.

- ☐ *No sabemos de otro caso del tribunal que pueda afectar este caso.*

**OR (O)**

There are other court cases that could affect this one. Here is the list:

- ☐ *Hay otros casos del tribunal que pueden afectar este caso. Consulte aquí la lista:*

The first court case is:

*El primer caso del tribunal es:*

- ☐ Order of Protection *Orden de Protección*  
☐ Criminal Case *Caso Penal*  
☐ Adoption *Adopción*  
☐ Guardianship *Tutela*  
☐ Child and Family Services *Servicios Oficiales para el Niño y la Familia*  
☐ Other: *(describe) Otro: (describa)* \_\_\_\_\_

Court *Tribunal:* \_\_\_\_\_

Case Number *Número del Caso:* \_\_\_\_\_

- ☐ I participated as a: *Participé como:*  
☐ party *parte*  
☐ witness *testigo*  
☐ other: *otro:* \_\_\_\_\_

**OR (O)**

- ☐ I didn't participate. *No participé.*

The second court case is:

*El segundo caso del tribunal es:*

- ☐ Order of Protection *Orden de Protección*  
☐ Criminal Case *Caso Penal*  
☐ Adoption *Adopción*  
☐ Guardianship *Tutela*  
☐ Child and Family Services *Servicios Oficiales para el Niño y la Familia*  
☐ Other: *(describe) Otro: (describa)* \_\_\_\_\_

Court *Tribunal:* \_\_\_\_\_

Case Number *Número del Caso:* \_\_\_\_\_

- ☐ I participated as a: *Participé como:*  
☐ party *parte*  
☐ witness *testigo*  
☐ other: *otro:* \_\_\_\_\_

**OR (O)**

- ☐ I didn't participate. *No participé.*

There are more court cases. (Fill out and paper clip **Form MP-113-E** to this document.)

- ☐ *Hay más casos del tribunal. (Rellene **MP-113-E** y adjuntarlo con un sujetapapeles a este documento.)*

**11. Other people. (Choose one.)**

***Otras personas. (Elija uno.)***

We don't know of any other person who has physical custody or claims to have physical custody or to have visitation rights with a child listed in this petition.

- ☐ *No conocemos otra persona que haya tenido custodia física o que afirme tener custodia física o que tenga derecho de visita con un niño indicado en esta petición.*

**OR (O)**

Here is a list of people who have physical custody or claim to have physical custody or visitation rights with a child listed in this petition:

- ☐ *Esta es una lista de las personas que tienen custodia física o que afirman tener custodia física o derecho de visita con el niño indicado en esta petición:*

Name <i>Nombre</i>	Address <i>Dirección</i>	Child's name <i>Nombre del niño</i>	Description <i>Descripción</i>
			Has physical custody <input type="checkbox"/> <i>Tiene custodia física</i>  Claims physical custody <input type="checkbox"/> <i>Afirma custodia física</i>  Claims visitation rights <input type="checkbox"/> <i>Afirma derecho de visita</i>
			Has physical custody <input type="checkbox"/> <i>Tiene custodia física</i>  Claims physical custody <input type="checkbox"/> <i>Afirma custodia física</i>  Claims visitation rights <input type="checkbox"/> <i>Afirma derecho de visita</i>
			Has physical custody <input type="checkbox"/> <i>Tiene custodia física</i>  Claims physical custody <input type="checkbox"/> <i>Afirma custodia física</i>  Claims visitation rights <input type="checkbox"/> <i>Afirma derecho de visita</i>

We understand we must give notice of this case to anyone on this list. (Fill out and paper clip a copy of Form **MP-113-D** to this document for each person on this list. Send Form **MP-407** to everyone listed.)

- ☐ *Entendemos que debemos avisar de este caso a cualquier persona que aparece en esta lista. (Rellene la Forma **MP-113-D** y adjunte una copia con un sujetapapeles a este documento para cada persona que aparece en esta lista. Envíe la Forma **MP-407** a cada persona en esta lista.)*

**12. Parenting Plan.**  
***Plan de Crianza.***

It is in the best interest of our child(ren) that this court adopt our joint proposed parenting plan.  
*Es en el interés superior de nuestros niños que este tribunal adopte nuestro Plan de Crianza Conjunto Propuesto.*

This is a document that we filed separately.  
*Entregamos este documento por separado.*

Our proposed parenting plan includes parenting time, child support, and medical support.  
*Nuestro Plan de Crianza Propuesto incluye tiempo para la crianza de los niños, manutención de los niños, y apoyo médico.*

**NOTICE:** State law requires the parties to file a child support calculation using the Montana guidelines. You can find this law at §40-4-204, M.C.A.

**AVISO:** La ley estatal requiere que se presente un cálculo de manutención de los hijos utilizando las pautas de Montana. Esta ley se encuentra en §40-4-204, M.C.A.

**13. Preliminary Disclosure. (Choose one.)**  
***Comunicación Preliminar. (Elija uno.)***

Before filing this petition, we gave each other a description of our income and expenses by using Form **MP-510**.

- ☐ *Antes de presentar esta petición, nos hemos entregado una descripción de nuestros ingresos y gastos utilizando la **Forma MP-510**.*

**OR (O)**

Within 60 days of filing this case we will give each other a description of our income and expenses by using Form **MP-510**.

- ☐ *Dentro de 60 días después de presentar este caso, nos entregaremos una descripción de nuestros ingresos y gastos utilizando **Forma MP-510**.*

**14. Property Distribution. (Choose one.)**  
***Distribución de Propiedad (Elija uno.)***

We have marital property, including personal property, real property, other assets, liabilities, and/or debts that need to be distributed as we agree or by the court.

*Tenemos bienes conyugales, incluyendo propiedad personal, bienes raíces, otros activos y pasivos, y/o deudas que necesitamos distribuir tal como acordamos o por el tribunal.*

We ask the court to distribute our marital property as described in **Form MP-500** Financial Disclosure and Proposed Property Distribution, filed separately.

- ☐ *Pedimos que el tribunal distribuya nuestros bienes conyugales como indicado en la **Forma MP-500, Declaración Financiera y Distribución de Propiedad Propuesta**, presentado por separado.*

**OR (O)**

We entered into an agreement prior to getting married. (Write MP-113-A on a copy of the prenuptial agreement and paper clip it to this document.)

- ☐ *Entramos en un acuerdo antes de casarnos. (Escriba MP-113-A en una copia del acuerdo prenupcial y adjuntarla a este documento.)*

**15. Former Name. (Choose one.)**

***Nombre Anterior. (Elija uno.)***

Co-Petitioner 1 asks that their name be restored to their previous name:

- ☐ *Parte Demandante 1 pide que su nombre sea retornado a su nombre anterior.*

\_\_\_\_\_.

**OR (O)**

Co-Petitioner 1 wants to keep their current name.

- ☐ *Parte Demandante 1 quiere mantener su nombre actual.*

**AND (Y)**

Co-Petitioner 2 asks that their name be restored to their previous name:

- ☐ *Parte Demandante 2 pide que su nombre sea retornado a su nombre anterior:*

\_\_\_\_\_.

**OR (O)**

Co-Petitioner 2 wants to keep their current name.

- ☐ *Parte Demandante 2 quiere mantener su nombre actual.*

**16. Maintenance. (Choose One.)**

***Manutención. (Elija Uno.)***

We are not requesting maintenance.

- ☐ *No pedimos manutención.*

**OR (O)**

We agree that Co-Petitioner 2 pay Co-Petitioner 1 \$\_\_\_\_\_ per month

- ☐ *Acordamos que Parte Demandante 2 le paga a la Parte Demandante 1 \$\_\_\_\_\_ por mes*

until (date)\_\_\_\_\_ for maintenance. The payment must be made  
*hasta la (fecha)\_\_\_\_\_ para la manutención. El pago debe efectuarse*

on the \_\_\_\_\_ of each month directly to Co-Petitioner 1.

*en el \_\_\_\_\_ de cada mes directamente a Parte Demandante 1.)*

**OR (O)**

We agree that Co-Petitioner 1 pay Co-Petitioner 2 \$ \_\_\_\_\_ per month  
☐ *Acordamos que Parte Demandante 1 le paga a la Parte Demandante 2 \$ \_\_\_\_\_ por mes*  
until (date) \_\_\_\_\_ for maintenance. The payment must be made  
*hasta la (fecha) \_\_\_\_\_ para la manutención. El pago debe efectuarse*  
on the \_\_\_\_\_ of each month directly to Co-Petitioner 2.  
*en el \_\_\_\_\_ de cada mes directamente a Parte Demandante 2.)*

We request maintenance because Co-Petitioner 1 \_\_\_\_\_ Co-Petitioner 2 \_\_\_\_\_  
*Pedimos manutención porque la* ☐ *Parte Demandante 1* ☐ *Parte Demandante 2*  
lacks sufficient property to support themselves and they are unable to gain employment sufficient to  
support themselves or they need to care for a child with special needs.  
*carece de propiedad suficiente para mantenerse a sí mismo y no puede conseguir empleo*  
*suficiente para mantenerse a las necesidades de sí mismo o necesita cuidar de*  
*un niño con necesidades especiales.*

**17. Other Otro:**

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**We ask the court to take the following action:**

***Pedimos que el tribunal tome la siguiente acción:***

1. Enter a decree of dissolution of marriage dissolving our marriage;  
*Registre un decreto de disolución del matrimonio para disolver nuestro matrimonio;*
2. Adopt our joint proposed parenting plan including parenting time, child support, and medical support.  
*Adopte nuestro Plan de crianza conjunto propuesto incluyendo tiempo para la crianza de los niños, manutención del niño, y apoyo médico.*
3. Grant each party the marital property, including personal property, real property, other assets, liabilities, and/or debts as stated in our Financial Disclosure and Proposed Property Distribution filed separately.  
*Conceda a cada parte los bienes conyugales, incluyendo propiedad personal, propiedad real, otros activos, pasivos, y/o las deudas tal como declara nuestra Declaración Financiera y la Distribución de Propiedad Propuesta presentadas por separado.*
4. If we asked the Court to do so, restore us to our former name.  
*Si hemos pedido al tribunal hacerlo, reestablecer nuestro nombre anterior.*
5. If we asked the Court to do so, enter an order for maintenance.  
*Si hemos pedido al tribunal hacerlo, registrar una orden de manutención.*

6. Other *Otro*:

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7. And for any other relief this court decides is just and proper.

*Y cualquier otra compensación que el tribunal decida justa y adecuada.*

**We declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. We understand that it is a crime to give false information in this document.**

***Declaro bajo pena de perjurio, y bajo las leyes del estado de Montana, que la información contenida en esta solicitud es verdadera y correcta. Entendemos que hacer una declaración falsa en este documento es un delito.***

Date *Fecha*: \_\_\_\_\_ City *Ciudad* \_\_\_\_\_ State *Estado* \_\_\_\_\_

\_\_\_\_\_  
Co-Petitioner 1 (Signature) *Parte Demandante 1 (Firma)*

Date *Fecha*: \_\_\_\_\_ City *Ciudad* \_\_\_\_\_ State *Estado* \_\_\_\_\_

\_\_\_\_\_  
Co-Petitioner 2 (Signature) *Parte Demandante 2 (Firma)*