

HOUSE BILL NO. 182

INTRODUCED BY K. HOLMLUND

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COURT ADMINISTRATION LAWS TO ESTABLISH A
5 CIVIL LEGAL AID ACCOUNT AND GRANT PROGRAM; INCREASING FEES FOR CERTAIN FILINGS IN
6 DISTRICT COURT; PROVIDING A STATUTORY APPROPRIATION FOR THE COST OF PROVIDING LEGAL
7 ASSISTANCE OR ALTERNATIVE DISPUTE RESOLUTION TO PERSONS OF LIMITED MEANS IN CIVIL
8 LEGAL MATTERS; AMENDING SECTIONS 3-1-702, 17-7-502, 25-1-201, 25-9-506, AND 44-7-202, MCA; AND
9 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Civil legal aid account -- distribution of funds -- report.** (1) There is a
14 civil legal aid account in the state special revenue fund. The money in the account must be used solely to provide
15 legal assistance or alternative dispute resolution to persons of limited means in civil legal matters. Programs
16 funded by the account are intended to improve court efficiency, reduce delays, and help all court users save time
17 and money by resolving their disputes more quickly.

18 (2) The supreme court administrator shall establish procedures for the distribution and accountability of
19 money in the account. The court administrator shall give priority to programs that serve persons with demographic
20 barriers or in locations that lack access to legal services, including but not limited to:

- 21 (a) programs in communities that serve American Indian populations;
22 (b) programs that reach broadly across the entire state, including through technological innovations;
23 (c) programs that serve domestic violence survivors;
24 (d) programs that provide alternative dispute resolution for high-volume self-representation cases, such
25 as family law and landlord-tenant matters;
26 (e) programs facilitating the ability of Montanans of modest means to find attorneys they can afford; and
27 (f) development of forms and instructional materials explaining court processes that can be used by
28 people representing themselves.

29 (3) To be eligible to receive funds from the account, a service provider must:

- 30 (a) be a tax-exempt organization and be one of the following:

1 (i) a nonprofit organization under section 501(c)(3) of the Internal Revenue Code in operation for at least
2 1 year that ordinarily renders or finances legal services to persons of limited means in civil matters or has a
3 primary focus of coordinating volunteer or reduced-fee legal services to provide attorney representation to
4 Montanans of limited means;

5 (ii) a legal aid clinic of an accredited law school operating exclusively in Montana; or

6 (iii) a court-connected mediation program attached to a district court or a justice court;

7 (b) apply for the funds and include in the grant application a detailed plan for how the applicant intends
8 to use the funds for one or more of the purposes of this section and how the applicant intends to collect and report
9 data, account for the funds received, and measure progress on performance goals.

10 (4) Money disbursed from the account cannot be used to:

11 (a) bring a suit against the state of Montana or other governmental entity, unless the suit is brought to
12 enforce an individual's right to governmental benefits provided under a statute or regulation, including but not
13 limited to social security, medicare, medicaid, and housing benefits;

14 (b) acquire land or buildings;

15 (c) provide legal advice or representation on criminal matters;

16 (d) support lobbying, as defined in 5-7-102; or

17 (e) pay attorneys employed in for-profit law firms.

18 (5) Money in the account is statutorily appropriated, as provided in 17-7-502, to the office of the court
19 administrator for purposes provided in subsection (1).

20 (6) The supreme court administrator shall submit a report to the law and justice interim committee, as
21 provided in 5-11-210, on or before September 30, 2023, documenting the amount of revenue deposited in the
22 state special revenue account, the amount of funds distributed, and the nonprofit organizations to which funds
23 were distributed. The report shall include a summary of the legal services provided to persons of limited means
24 by organizations receiving funds, a summary of outcome measures, and information concerning the impact, if
25 any, on court efficiencies and caseloads.

26

27 **Section 2.** Section 3-1-702, MCA, is amended to read:

28 **"3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction
29 of the supreme court, the court administrator shall:

30 (1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded

1 district court program;

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

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

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

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

9 (6) administer civil legal assistance for persons of limited means, as provided in [section 1];

10 ~~(6)~~(7) administer state funding for district courts, as provided in chapter 5, part 9;

11 ~~(7)~~(8) administer and report on the child abuse and neglect court diversion pilot project provided in
12 41-3-305;

13 ~~(8)~~(9) administer the pretrial program provided for in 3-1-708;

14 ~~(9)~~(10) administer the judicial branch personnel plan; and

15 ~~(10)~~(11) perform other duties that the supreme court may assign. (Subsection ~~(7)~~ (8) terminates June
16 30, 2019--secs. 5, 7, Ch. 141, L. 2017.)"

17

18 **Section 3.** Section 17-7-502, MCA, is amended to read:

19 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
20 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
21 need for a biennial legislative appropriation or budget amendment.

22 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
23 of the following provisions:

24 (a) The law containing the statutory authority must be listed in subsection (3).

25 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
26 appropriation is made as provided in this section.

27 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; [section 1];
28 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203;
29 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117;
30 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212;

1 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702;
2 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534;
3 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306;
4 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503;
5 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113;
6 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214;
7 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
8 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;
9 [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

10 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
11 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
12 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
13 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
14 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
15 appropriation authority for the payments.(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
16 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
17 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
18 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
19 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
20 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion
21 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112
22 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,
23 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of
24 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates
25 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of
26 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant
27 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.
28 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,
29 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the
30 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304

1 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates
 2 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant
 3 to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023;
 4 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,
 5 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,
 6 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

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

9 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

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

14 (b) from each defendant or respondent, on appearance, ~~\$60~~ \$100;

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

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

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

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

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

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

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

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

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

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

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

- 1 (l) for issuing a marriage license, \$53;
- 2 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment of
3 a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the
4 applicant or petitioner, \$70, which includes the fee for filing a will for probate;
- 5 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the
6 estate of a nonresident decedent, \$55;
- 7 (o) for filing a declaration of marriage without solemnization, \$53;
- 8 (p) for filing a motion for substitution of a judge, \$100;
- 9 (q) for filing a petition for adoption, \$75;
- 10 (r) for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.
- 11 (2) Except as provided in subsections (3) and (5) through ~~(7)~~ (9), fees collected by the clerk of district
12 court must be deposited in the state general fund as specified by the supreme court administrator.
- 13 (3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's
14 trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for indigent victims
15 of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family
16 member assault intervention and treatment fund established in 40-15-110.
- 17 (b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund
18 account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention
19 and treatment fund established in 40-15-110.
- 20 (4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an
21 amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may
22 not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under
23 subsection (1)(a).
- 24 (5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be
25 deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714 and
26 \$80 must be deposited in the state special revenue account established in [section 1].
- 27 (6) Of the fee for filing a complaint in intervention, \$90 must be deposited in the state special revenue
28 account established in [section 1].
- 29 (7) Of the fee collected on appearance from each defendant or respondent, \$40 must be deposited in
30 the state special revenue account established in [section 1].

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

4 ~~(7)~~(9) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without
5 solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-7-202 and
6 \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must be
7 deposited in the county general fund to be used for district court operations.

8 ~~(8)~~(10) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not
9 otherwise specifically allocated must be deposited in the state general fund."

10

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

12 **"25-9-506. Fees.** (1) Except as provided for in subsection (2), a person filing a foreign judgment shall
13 pay to the clerk of court a fee of ~~\$60~~ \$100, of which \$40 must be deposited in the state special revenue account
14 established in [section 1].

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

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

19

20 **Section 6.** Section 44-7-202, MCA, is amended to read:

21 **"44-7-202. Domestic violence intervention account -- administration by board of crime control.**

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

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

28

29 NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an
30 integral part of Title 3, chapter 2, part 7, and the provisions of Title 3, chapter 2, part 7, apply to [section 1].

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2 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2019.

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4 NEW SECTION. **Section 9. Termination.** [This act] terminates June 30, 2025.

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