

1 HOUSE BILL NO. 287

2 INTRODUCED BY K. GILLAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PARENTS OF CHILDREN UNDER THE AGE OF 7
5 TO REQUEST AN EXCUSE FROM JURY SERVICE; REQUIRING COMPENSATION FOR CHILD CARE
6 EXPENSES IF THE EXCUSE IS NOT GRANTED; AMENDING SECTIONS 3-15-201, 3-15-203, 3-15-204,
7 3-15-205, AND 3-15-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 3-15-201, MCA, is amended to read:

12 **"3-15-201. Fees in courts of record.** (1) A grand or trial jury panel member shall receive \$12 per
13 day for attendance before any court of record and a mileage allowance, as provided in 2-18-503, for
14 traveling each way between ~~his~~ the member's residence and the county seat. Those jurors selected from
15 the panel for a case shall receive an additional \$13 a day while serving.

16 (2) A juror who is excused from attendance upon ~~his~~ the juror's own motion on the first day of
17 ~~his~~ the juror's appearance in obedience to notice or who has been summoned as a special juror and not
18 sworn in the trial of the case shall forfeit per diem and mileage.

19 (3) In addition to the fees payable under subsection (1), a juror who requests to be excused under
20 3-15-313(3) and whose request is denied shall receive compensation for child care expenses."

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22 **Section 2.** Section 3-15-203, MCA, is amended to read:

23 **"3-15-203. Fees in courts not of record and coroner inquests.** (1) A jury panel member in civil
24 actions, criminal actions, and coroner inquests is entitled to a fee of \$12 per day for attendance before
25 a court not of record and a mileage allowance, as provided in 2-18-503, for traveling each way between
26 ~~his~~ the member's residence and the court. A jury panel member selected for a case is entitled to an
27 additional \$13 per day while serving.

28 (2) In civil actions, the jurors' fees must be paid by the party demanding the jury and taxed as
29 costs against the losing party.

30 (3) A juror who is excused from attendance upon ~~his~~ the juror's own motion on the first day of

1 ~~his~~ the juror's appearance in obedience to notice or who has been summoned as a special juror and not
2 sworn in the trial of the case shall forfeit per diem and mileage.

3 (4) In addition to the fees payable under subsection (1), a juror who requests to be excused under
4 3-15-313(3) and whose request is denied shall receive compensation for child care expenses."

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6 **Section 3.** Section 3-15-204, MCA, is amended to read:

7 **"3-15-204. Duties of clerk as to jurors.** (1) The clerk must keep a record of the attendance of
8 jurors and compute the amount due for mileage. The distance from any point to the county seat must be
9 determined by the shortest traveled route.

10 (2) The clerk must give to each juror, at the time ~~he~~ the juror is excused from further service, a
11 warrant signed by ~~himself~~ the clerk; in which must be stated the name of the juror, the number of days'
12 attendance, the number of miles traveled, and the amount due, including expenses for child care if payable
13 under 3-15-313(3).

14 (3) On presentation of ~~such~~ the warrant to the county treasurer, the amount specified in the
15 warrant must be paid out of the general fund unless the county has a district court fund. If the county has
16 a district court fund, the amount must be paid out of ~~such~~ that fund.

17 (4) The clerk must make a detailed statement containing a list of the jurors and the amount of fees
18 and mileage earned by each and file the ~~same~~ statement with the clerk of the board of county
19 commissioners on the first day of every regular meeting of the board. ~~No~~ A quarterly salary ~~must be~~ may
20 not be paid to the clerk until ~~such~~ the statement is filed. The board ~~must~~ shall examine ~~such~~ the statement
21 and see that it is correct."

22

23 **Section 4.** Section 3-15-205, MCA, is amended to read:

24 **"3-15-205. Costs of impaneling jury.** (1) In a civil action before a court of record in which the
25 parties substantially agree to a settlement of the issues prior to impanelment of the jury and either settle
26 the action or stipulate to a continuance and then fail or refuse to inform the court or clerk of court of the
27 settlement or request a continuance and a jury is impaneled, the court may, upon hearing, assess the
28 reasonable public expenses of impaneling the jury, including jury fees, ~~and~~ mileage expenses paid or owing
29 under 3-15-201, and expenses of child care paid or owing under 3-15-313(3), against any party.

30 (2) In civil actions, the court may assess against a party the reasonable public expenses of

1 impaneling a jury, including jury fees, ~~and~~ mileage expenses paid or owing under 3-15-201, and expenses
 2 of child care paid or owing under 3-15-313(3), if the court on an issue of law or the jury on an issue of
 3 fact determines that the party's case is frivolous or maintained for purposes of harassment. The court shall
 4 instruct the jury regarding the provisions of this subsection.

5 (3) Costs collected under this section must be deposited in the county general fund unless the
 6 county has a district court fund. If the county has a district court fund, the costs must be deposited in the
 7 district court fund."
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9 **Section 5.** Section 3-15-313, MCA, is amended to read:

10 **"3-15-313. Who may be excused -- affidavit to claim excuse -- permanent exclusion for**
 11 **chronically incapacitated -- excuse for parents of young children or payment of child care expenses. (1)**

12 The court or jury commissioner with the approval of the court shall excuse a person from jury service upon
 13 finding that jury service would entail undue hardship for the person or the public served by the person.

14 (2) If a person believes jury service would entail undue hardship for the person or the public
 15 served, the person may make and transmit an affidavit to the jury commissioner for which the person is
 16 summoned, stating the person's occupation or other facts that the person believes will excuse the person
 17 from jury service. The affidavit must be filed with the jury commissioner, who shall transmit it to the court.
 18 The court or jury commissioner with the approval of the court may excuse a prospective juror from jury
 19 service if the prospective juror satisfies the provisions of subsection (1).

20 (3) A parent of a child under the age of 7, who has the legal custody of and the duty to care for
 21 the child and who desires to be excused from jury service, may request to be excused from jury service
 22 on the basis of undue hardship under subsection (1) by filing an affidavit stating the facts that will excuse
 23 the parent under this subsection. The court or jury commissioner with the approval of the court shall
 24 excuse the parent upon filing of the affidavit. If the court does not grant the excuse, the court shall provide
 25 compensation for child care in addition to other fees the parent is entitled to as a juror.

26 ~~(3)~~(4) A person who is chronically incapacitated by illness or injury may request a permanent
 27 exclusion from jury service by making and transmitting an affidavit to the jury commissioner of the
 28 person's place of residence. The affidavit must include a certification by the person's physician that the
 29 person is chronically incapacitated by illness or injury. The affidavit must be filed with the jury
 30 commissioner, who shall transmit it to the court. The court or jury commissioner with the approval of the

1 court may permanently excuse a prospective juror from jury service if the prospective juror satisfies the
2 provisions of this subsection ~~(3)~~ (4).

3 ~~(4)~~(5) For purposes of subsection ~~(3)~~ (4), a person is chronically incapacitated if the person has
4 a condition due to an illness or injury that restricts the person's ability to leave the person's place of
5 residence without the aid of supportive devices, such as crutches, a cane, a wheelchair, or a walker, that
6 restricts the person's ability to leave home without the use of special transportation or the assistance of
7 another person, or that causes leaving home to be medically contraindicated. Examples of factors to be
8 taken into account in determining whether chronic incapacitation exists include but are not limited to the
9 following:

10 (a) paralysis by a stroke or other cause;

11 (b) blindness;

12 (c) senility;

13 (d) loss of the use of a person's extremities requiring the assistance of another in leaving the
14 person's place of residence;

15 (e) arteriosclerotic heart disease of such severity that a person must avoid all stress and physical
16 activity; or

17 (f) a psychiatric problem if the illness is manifested in part by a refusal to leave home or is of such
18 a nature that it would not be considered safe for the person to leave home unattended, even if there are
19 no physical limitations."

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21 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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