EXHIBIT 1
DATE 2-9-05
HB 288

NANCY SWEENEY
CLERK OF THE DISTRICT COURT
228 Broadway Avenue, Room #104
P.O. Box 158
Helena, MT 59624-0158
Voice (406) 447-8216
Fax (406) 447-8275
nsweeney@co.lewis-clark.mt.us

February 7, 2005

State Administration Committee
Helena, MT 59620

RE HB 288 Corrections to collect supervisory fees instead of clerk of court

Dear Members of State Administration,

I am writing you to encourage you to vote in favor of HB 288. This is a bill sponsored by Mark Noenning, at the request of the Montana Association of Clerks of District Court. Simply put, this bill would move the responsibility of processing supervisory fees, paid by criminal defendants, from the clerks of district court to the department of corrections.

The clerks of district court believe HB 288 would l simplify collection and disbursement of this money. In Lewis and Clark County, the probation officers have at least monthly face-to-fact contact with the defendants and generally collect the payment of the supervisory fee from the defendant, bring it over to the county. At the end of the month, the county sends all of the money back to the state via the county collections report. It is an inefficient system, which could be simplified by having Corrections, via the probation officers, deposit the money collected form supervisory fees directly to the appropriate state account.

The Department of Corrections did not have a system in place to receive or disburse payments from defendants prior to the 2003 legislative session. Effective October 1, 2003, statutory modifications regarding restitution placed the responsibility of collecting and supervising restitution with the Department of Corrections. The Department of Corrections should be able to collect and account for this supervisory fee, within the system developed for restitution payments.

The clerks of court are asking that the statutes be changed to start to establish a simple, understandable system for an individual to pay their financial obligations arising out of a criminal, felony conviction. Prior to July 1, 2003, the counties were allowed, under 46-23-1031(2)(b), kept the administrative costs of collecting and accounting for the supervisory fee. The clerks of court received and disbursed all payments made by criminal defendants prior to 2003. It was clear to a criminal defendant that all payments

should go to the clerk of court. The clerk receipted in and disbursed restitution, fines, costs and surcharges to various state and private entities according to a detailed allocation schedule found at 46-187-251, MCA. The clerks of court did not oppose the 2003 legislation because the state was willing to take over this responsibility and the legislation improved collection alternatives from criminal defendants and their heirs.

The Montana Association of Clerks of District Court would simply like to see the Department of Corrections take over the entire responsibility of supervising a criminal defendant. The supervision would include traditional supervisory responsibilities, such as monitoring of unacceptable behaviors, as well as payment of financial obligations. Several of the clerks of court from smaller jurisdictions believe that total recovery of supervisory fees and associated administrative costs will increase under this proposal since monitoring and enforcement of court ordered criminal obligations is difficult for part-time county attorneys. The clerks believe that if the probation officers assist corrections in collecting financial obligations at the time of their regular contact with the criminal defendant, collections of all financial payments will increase.

This bill will streamline the current process and make for better government. I would encourage you to give HB 288 a "do pass" recommendation.

Sincerely,

Nancy

Nancy Sweeney
Lewis & Clark County
Clerk of District Court