Exhibit No. 4
Date 3-22-05
Bill No. HB 476

Amendments to House Bill No. 476

Requested by Montana Association of Clerks of District Court

For the Senate Judiciary Committee

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COORDINATION SECTION. **SECTION 8. COORDINATION INSTRUCTION.** IF SENATE BILL NO. 67 IS PASSED AND APROVED AND IF IT AMENDS 25-1-201, THEN [SECTION 5 OF THIS ACT], AMENDING 25-1-201, IS VOID AND 25-1-201 MUST BE AMENDED AS FOLLOWS:

25-1-201. Fees of the 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; for filing a complaint in intervention, from the intervener, $80; for filing a petition for dissolution of marriage, $160; for filing a petition for legal separation, $150; and for filing a petition for a contested amendment of a final parent plan, $120;

(b) from each defendant or respondent, on appearance, $60;

(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, $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;

(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 al 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;

(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, $9 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.

(6) The fees collected under subsections (1)(d), (1)(g), and (1)(j) 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) 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 [section 1] 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.

IF SENATE BILL NO. 67 IS PASSED AND APPROVED AND IF IT AMENDS 40-1-202, THEN [SECTION 6 OF THIS ACT], AMENDING 40-1-202, IS VOID AND 40-1-202, MUST BE AMENDED AS FOLLOWS:

40-1-202. License issuance. When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of $53, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

(1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213;

(2) satisfactory proof that the marriage is not prohibited; and

(3) a certificate of the results of any medical examination required by the laws of this state.

IF SENATE BILL NO. 67 IS PASSED AND APPROVED AND IF IT AMENDS 40-1-311, THEN [SECTION 7 OF THIS ACT], AMENDING 40-1-311, IS VOID AND 40-1-311 MUST BE AMENDED AS FOLLOWS:

40-1-311. Declaration of marriage without solemnization. (1) Persons desiring to consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301 must, prior to executing the declaration, secure the medical certificate required by this chapter, which must be firmly attached to the declaration and must be filed by the clerk of the district court in the county where the contract was executed.

(2) A declaration of marriage must contain substantially the following:

(a) the names, ages, and residences of the parties;

(b) the fact of marriage;

(c) the name of father and maiden name of mother of both parties and address of each;

(d) a statement that both parties are legally competent to enter into the marriage contract.

(3) The declaration must be subscribed by the parties and attested by at least two witnesses and formally acknowledged before the clerk of the district court of the county.

(4) The fee for filing a declaration is $53 and must be paid to the clerk at time of filing.

Renumber: subsequent sections.