

HOUSE BILL NO. 371

INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PRACTICE OF LAW; AND AMENDING SECTIONS 37-61-201, 37-61-210, AND 37-61-215, MCA."

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

Section 1. Section 37-61-201, MCA, is amended to read:

"37-61-201. Who considered to be practicing law. (1) Any Except as provided in subsections (2) through (4), any person who holds out to the public or advertises as an attorney or who appears in any court of record or before a judicial body, referee, commissioner, or other officer appointed to determine any question of law or fact by a court or who engages in the business and duties and performs acts, matters, and things that are usually done or performed by an attorney at law in the practice of that profession for the purposes of parts 1 through 3 of this chapter is authorized by the Montana supreme court to practice before the courts of this state, in the course of that person's avocation, is considered to be practicing law.

(2) An individual is not considered to be practicing law when acting:

(a) on the individual's own behalf; or

(b) in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator.

(3) An individual is not considered to be practicing law when, with the court's authorization, the individual acts:

(a) on behalf of another party to whom the person is related by a second degree of consanguinity or affinity;

(b) as a personal representative; or

(c) as a guardian ad litem.

(4) An individual is not considered to be practicing law when, with the permission of an administrative agency or tribunal, the individual acts as a lay representative."

Section 2. Section 37-61-210, MCA, is amended to read:

"37-61-210. Penalty for practicing without license. If Except as provided in 37-61-201, if any person

1 practices law in any court, except a justice's court or a city court, without having received a license as attorney,
2 the person is guilty of a ~~contempt of court~~ misdemeanor."

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4 **Section 3.** Section 37-61-215, MCA, is amended to read:

5 **"37-61-215. Allowance of attorney fees to unlicensed persons forbidden -- exception -- authorized**
6 **paralegal fees.** (1) ~~It~~ Except as provided in 30-14-133, it is unlawful for any court within this state to allow
7 attorney fees in any action or proceeding before the court in which attorney fees are allowed by law to either party
8 to an action or proceeding when the party is represented by anyone other than a duly admitted or licensed
9 attorney at law.

10 (2) This section does not prevent the award of paralegal fees as a component of attorney fees as
11 provided in 25-10-304."

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