

SENATE BILL NO. 21

INTRODUCED BY SHOCKLEY

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A DISTRICT COURT TO DISMISS A CIVIL ACTION FOR LACK OF PROSECUTION AFTER A PERIOD OF TIME; AMENDING SECTION 25-9-101, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Failure to prosecute -- dismissal on initiative of court.** In a district court action in which it appears on the face of the record that activity by filing of pleadings, order of court, or otherwise has not occurred for a period of 2 years and no stay has been issued or approved by the court, the court or, IF THE COURT DOES NOT ACT, the clerk of court shall serve notice of lack of prosecution to each party at the party's last-known address. If a pleading, order, or other activity does not occur within the 60-day period following the service of the notice and if a stay is not issued or approved during the 60-day period, the court shall, on its own motion and without further notice or hearing, dismiss the action without prejudice.

Section 2. Section 25-9-101, MCA, is amended to read:

"25-9-101. Judgment to be on the merits. In every case, judgment must be rendered on the merits, except as provided in [section 1] and Rule 41, M.R.Civ.P."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 25, chapter 1, part 1, and the provisions of Title 25, chapter 1, part 1, apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2011.

NEW SECTION. **Section 5. Applicability.** [This act] applies to actions filed in district court on or after [the effective date of this act].

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