

1 HOUSE BILL NO. 369

2 INTRODUCED BY S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO COURTS OF LIMITED
5 JURISDICTION; PROVIDING A PROCEDURE TO REMOVE CERTAIN CASES FILED IN COURTS OF LIMITED
6 JURISDICTION TO DISTRICT COURT; ALLOWING DISTRICT COURT JUDGES TO CONSOLIDATE
7 JURISDICTION IN A DISTRICT COURT WHEN A CASE FILED IN A COURT OF LIMITED JURISDICTION
8 AROSE OUT OF THE SAME TRANSACTION AS A CASE FILED IN DISTRICT COURT; REQUIRING A PARTY
9 TO PAY DISTRICT COURT FEES UPON REMOVAL; AMENDING SECTION 3-5-311, MCA; AND PROVIDING
10 AN APPLICABILITY DATE."

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

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14 NEW SECTION. Section 1. Removal to district court. (1) A party desiring to remove any civil action
15 from a justices' court, a municipal court, a city court, or the small claims division of a justices' court shall file in
16 the district court of the judicial district in which the action is pending a notice of removal containing a short and
17 plain statement of the grounds for removal, together with a copy of the summons and any complaints served upon
18 the party in the action.

19 (2) Civil actions or proceedings may be removed for the following reasons:

20 (a) the amount in controversy exceeds the \$12,000 jurisdictional limit for justices' courts provided in
21 3-10-301 and applied to municipal courts in 3-6-103; or

22 (b) the civil action or proceeding filed in a justices' court, a municipal court, a city court, or the small
23 claims division of a justices' court arose out of the same transaction or occurrence as a civil action or proceeding
24 pending in district court.

25 (3) (a) Promptly after the filing of a notice of removal of a civil action or proceeding, the party shall give
26 written notice to all parties and shall file a copy of the notice with the clerk of the district court in which the civil
27 action or proceeding is to be tried.

28 (b) The notice of removal effectuates the removal, and the justices' court, municipal court, city court, or
29 small claims division of a justices' court may not proceed any further unless the case is remanded.

30 (c) UPON RECEIVING NOTICE OF REMOVAL, THE JUSTICES' COURT, MUNICIPAL COURT, CITY COURT, OR SMALL

1 CLAIMS DIVISION OF A JUSTICES' COURT SHALL IMMEDIATELY TRANSMIT THE PLEADINGS AND ALL PAPERS IN THE ACTION
 2 TO THE CLERK OF THE DISTRICT COURT.

3 (4) If a party believes the removal is improper, the party shall file a motion to remand within 20 days of
 4 service of the notice of removal.

5 (5) A PARTY WHO FILES A NOTICE TO REMOVE A CIVIL ACTION TO DISTRICT COURT UNDER THIS SECTION SHALL
 6 PAY ALL COSTS AND FEES OF FILING THE PAPERS IN THE DISTRICT COURT PURSUANT TO 25-1-201.

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8 **Section 2.** Section 3-5-311, MCA, is amended to read:

9 **"3-5-311. Powers of judges at chambers.** (1) The judge of the district court may at chambers:

10 (a) issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and injunction,
 11 other original and remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held
 12 in actual custody in the judicial district;

13 (b) grant all orders and writs that are usually granted in the first instance upon an ex parte application
 14 and hear and dispose of those orders and writs;

15 (c) hear and determine any matter necessary in the exercise of the judge's powers in matters of probate
 16 or in any action or proceeding provided by law and any action in which all party defendants have made default;

17 (d) issue any process, make any order, and make and enter any default judgment-; and

18 (e) consolidate jurisdiction in district court over a civil action or proceeding filed in a justices' court, a
 19 municipal court, a city court, or the small claims division of a justices' court when the civil action or proceeding
 20 arose out of the same transaction or occurrence as a case pending in district court.

21 (2) When default judgments are entered in default cases, the judge shall forward to the clerk of the court
 22 of the county in which the action is pending the judgment, together with a minute entry of the proceedings. The
 23 clerk shall incorporate the judgment and minute entry into the minutes of the court.

24 (3) If a jury is necessary, the judge may open court and obtain a jury as in other cases."
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26 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
 27 integral part of Title 3, and the provisions of Title 3, apply to [section 1].

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29 NEW SECTION. Section 4. Applicability. [This act] applies to proceedings begun after the effective
 30 date of [this act].

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