

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING FEE AWARDS IN CERTAIN CIVIL
5 ACTIONS; ALLOWING A PREVAILING PARTY IN A CIVIL SUIT TO BE PAID ATTORNEY FEES; ALLOWING
6 A COURT TO DISMISS A CASE ON MOTION IF THE COURT FINDS THAT THE CASE IS FRIVOLOUS;
7 PROVIDING EXCEPTIONS; AND APPLYING TO CIVIL SUITS FILED IN MUNICIPAL, JUSTICES' CITY, OR
8 SMALL CLAIMS COURTS."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Attorney fees -- municipal, justices', city, small claims courts.** (1)

13 Except as provided in subsections (3) and (4), a prevailing party in a civil suit, as defined in subsection (4),
14 including a civil suit on appeal, is entitled to reasonable attorney fees.

15 (2) On motion by a party and in a civil suit as defined in subsection (4), the court may dismiss a case
16 and award attorney fees and costs if the action is deemed frivolous by the court. The court may determine, after
17 a hearing, that all or substantially all of the claims, defenses, setoffs, or counterclaims made by a party
18 represented by counsel were wholly insubstantial, frivolous, and not advanced in good faith. The court shall
19 include in its findings the specific facts and reasons on which the findings are based. If the court finds that a
20 party's claim was frivolous, it shall award the prevailing party reasonable attorney fees and other costs and
21 expenses incurred in defending against the claims. If the finding is made with respect to a party's defenses,
22 setoffs, or counterclaims, the court shall award the prevailing party:

23 (a) interest on the unpaid portion of the monetary claims at issue from the date the claim was due;
24 and

25 (b) reasonable attorney fees, costs, and expenses.

26 (3) Except in cases utterly frivolous and without merit as provided in subsection (2), subsection (1)
27 does not apply in cases for:

28 (a) the creation or modification of a parenting plan;

- 1 (b) probate; and
- 2 (c) when a prevailing party and a nonprevailing party have an agreement regarding attorney fees.
- 3 (4) For the purposes of this section, the term "civil suit" includes any action filed in:
- 4 (a) municipal court, as provided in Title 3, chapter 6;
- 5 (b) justices' court, as provided in Title 3, chapter 10;
- 6 (c) city court, as provided in Title 3, chapter 11; and
- 7 (d) small claims court, as provided in Title 3, chapter 12.

8

9 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an

10 integral part of Title 25, chapter 10, and the provisions of Title 25, chapter 10, apply to [section 1].

11 - END -