

## 1 SENATE JOINT RESOLUTION NO. 6

2 INTRODUCED BY WHEAT

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4

5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF  
6 MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL DESIGNATE AN APPROPRIATE INTERIM  
7 COMMITTEE OR DIRECT STAFF RESOURCES TO STUDY ACCESS BY LOW-INCOME MONTANANS TO  
8 THE MONTANA CIVIL LEGAL SYSTEM AND TO DETERMINE WHETHER ANY CHANGES ~~IN ITS FUNDING~~  
9 ~~IS~~ ARE APPROPRIATE.

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11 WHEREAS, nearly one out of every five Montanans, 190,000 people, live at or near the federal poverty  
12 level, and Montana ranks 10th in the overall poverty rate among the states and ranks 45th in median household  
13 income and 46th in per capita income; and

14 WHEREAS, a comprehensive legal needs study has recently been completed by the Equal Justice Task  
15 Force created by the Montana Supreme Court; and

16 WHEREAS, although the data from the legal needs study is just beginning to be analyzed, preliminary  
17 results of the legal needs study show that 85% of Montana's poor and near-poor residents have at least one  
18 legal problem a year; and

19 WHEREAS, federal funding for civil legal assistance to the poor has been substantially reduced in recent  
20 years; and

21 WHEREAS, in 1996, the Montana Legal Services Association, Montana's only general statewide civil  
22 legal assistance provider, suffered a 48% reduction in federal funding, which has never been restored, and the  
23 Montana Legal Services Association's Legal Assistance to Victims grant from the U.S. Department of Justice  
24 Violence Against Women Act Office was not renewed for 2005, resulting in further reductions in services to  
25 low-income people; and

26 WHEREAS, although there is one private attorney for every 365 Montana residents, there is only one  
27 Montana Legal Services Association attorney for every 13,000 low-income residents; and

28 WHEREAS, the State of Montana provides no funding for civil legal assistance to Montana's low-income  
29 population; and

30 WHEREAS, reductions in civil legal assistance funding for the poor has been exacerbated by the low

1 rate of return on the Interest on Lawyers Trust Accounts funds, managed by the Montana Justice Foundation,  
2 one of the few additional funding sources for civil legal services to the poor; and

3 WHEREAS, denial of access to Montana's civil legal system prevents Montana residents from realizing  
4 the protections afforded by the Montana Constitution.

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6 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF  
7 THE STATE OF MONTANA:

8 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to  
9 section 5-5-217, MCA, or direct sufficient staff resources to review the access to the legal system in Montana  
10 that is provided to low-income Montanans and to determine whether any changes may be appropriate. The study  
11 must include:

12 (1) a review of the unmet civil legal needs of low-income residents of Montana using the recently  
13 completed legal needs study;

14 (2) a review of technological advances in place to serve the civil legal needs of low-income Montanans  
15 and of whether additional resources or further coordination of technological resources could address all or part  
16 of the unmet needs;

17 (3) a review of the services and resources being provided by the attorneys in private practice,  
18 governmental agencies, and nongovernmental organizations to meet the civil legal needs of low-income  
19 residents of Montana and of the efforts underway to increase those services, resources, or both;

20 (4) changes in state law necessary to facilitate the provision of civil legal services to those unable to  
21 afford them;

22 (5) a review of funding sources currently available to address civil legal needs of low-income  
23 Montanans;

24 (6) a determination of the level of public funding required to provide the assistance necessary to  
25 enhance equal access to the Montana justice system;

26 (7) a review of revenue options that could be considered in providing state funding for civil legal services  
27 for low-income residents of Montana and the manner in which state funds could be appropriated; ~~and~~

28 (8) A DETERMINATION OF THE TYPES AND NUMBERS OF CIVIL CASES IN WHICH LEGAL SERVICES OR RESOURCES  
29 ARE PROVIDED TO LOW-INCOME MONTANANS THROUGH PUBLIC OR PRIVATE SOURCES;

30 (9) A REVIEW OF AND RECOMMENDATION REGARDING POSSIBLE ALTERNATIVE METHODS OF PROVIDING NEEDED

1 LEGAL SERVICES AND RESOURCES TO LOW-INCOME MONTANANS OTHER THAN BY DIRECT REPRESENTATION BY  
2 ATTORNEYS; AND

3 (10) A REVIEW OF COURTS' INVOLVEMENT IN ASSISTING LOW-INCOME MONTANANS WHO APPEAR BEFORE THE  
4 COURTS TO RECEIVE NEEDED LEGAL OR OTHER SERVICES;

5 (11) A REVIEW OF HOW THE YOUTH COURTS MAY BE USED TO REDUCE RECIDIVISM IN THE YOUTH COURT SYSTEM  
6 BY PROVIDING REFERRALS TO SERVICES FOR AT-RISK FAMILIES; AND

7 ~~(8)(10)(12)~~ any other aspect of the administration of access to justice for low-income Montanans that  
8 is determined to be appropriate.

9 BE IT FURTHER RESOLVED, that the study committee or staff be directed to request information and  
10 staff assistance from the Legislative Fiscal Division.

11 BE IT FURTHER RESOLVED, that the committee or staff be directed to develop a specific list of options,  
12 including an option of no action, to be considered for recommendation to the 60th Legislature.

13 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be  
14 presented to and reviewed by an appropriate committee designated by the Legislative Council.

15 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review  
16 requirements, be concluded prior to September 15, 2006.

17 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,  
18 comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

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