

HOUSE BILL NO. 301
INTRODUCED BY D. KOTTEL

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING REASONABLE PARALEGAL FEES AS A COMPONENT OF ATTORNEY FEES THAT MAY BE AWARDED TO A PREVAILING PARTY IN CERTAIN CASES; DEFINING "PARALEGAL"; AMENDING SECTIONS 25-10-302 AND 37-61-215, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Paralegal fees as component of attorney fees. In any case or proceeding in which attorney fees are awarded to the prevailing party, the court may, as a component of the attorney fees, include reasonable fees of a paralegal, as defined in [section 2].

NEW SECTION. Section 2. Paralegal defined -- use of title. (1) As used in [section 1] and this section, "paralegal" means a person qualified through education, training, or work experience who is employed or retained to perform, under supervision by a licensed attorney, substantive legal work that:

- (a) requires a substantial knowledge of legal concepts; and
- (b) in the absence of the paralegal, would be performed by an attorney.
- (2) An individual may use the title "paralegal" if the individual:
 - (a) has received an associate's degree in paralegal studies from an accredited institution or a baccalaureate degree in paralegal studies from an accredited college or university;
 - (b) has received a baccalaureate degree in any discipline from an accredited college or university and has completed not less than 18 semester credits of course work offered by a qualified paralegal studies program;
 - (c) has received certification by the national association of legal assistants or the national federation of paralegal associations;
 - (d) has received a high school diploma or its equivalent, has performed not less than 4,800 hours of substantive legal work under the supervision of a licensed attorney documented by the certification of the attorney or attorneys under whom the work was done, and has completed at least 5 hours of approved continuing legal education in the area of legal ethics and professional responsibility; or
 - (e) has graduated from an accredited law school and has not been disbarred or suspended from the

practice of law by any jurisdiction.

Section 3. Section 25-10-302, MCA, is amended to read:

"25-10-302. Inclusion of attorney's fees in bill of costs. The attorney fees mentioned in 25-10-303, 30-9A-607, 71-1-233, and 71-3-124 and paralegal fees as a component of attorney fees as provided in [section 1] need not be included in the cost bill if they are made a part of the judgment."

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

"37-61-215. Allowance of attorneys' attorney fees to unlicensed persons forbidden -- authorized paralegal fees. (1) It ~~shall be~~ is unlawful for any court within this state to allow ~~attorneys'~~ attorney fees in any action or proceeding before ~~said the~~ the court in which ~~attorneys'~~ attorney fees are allowed by law to either party to ~~such an~~ an action or proceeding when ~~such the~~ the party is represented by anyone other than a duly admitted or licensed attorney at law.

(2) This section does not prevent the award of paralegal fees as a component of attorney fees as provided in [section 1]."

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 25, chapter 10, part 3, and the provisions of Title 25, chapter 10, apply to [sections 1 and 2].

NEW SECTION. **Section 6. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 8. Applicability.** [This act] applies to actions and proceedings filed on or after [the effective date of this act].

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