

1 HOUSE BILL NO. 46

2 INTRODUCED BY K. DUDIK, N. SWANDAL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CIVIL LEGAL ASSISTANCE FOR
5 LOW-INCOME PERSONS ACCOUNT; INCREASING FEES FOR CERTAIN FILINGS IN DISTRICT COURT AND
6 JUSTICE COURT; PROVIDING A STATUTORY APPROPRIATION FOR COSTS OF PROVIDING CIVIL LEGAL
7 ASSISTANCE TO LOW-INCOME PERSONS; AMENDING SECTIONS 3-1-702, 3-2-714, 17-7-502, 25-1-201,
8 25-9-506, 25-31-112, AND 44-4-310, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
9 DATE."

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

12
13 NEW SECTION. **Section 1. Civil legal assistance for low-income persons account.** (1) There is a
14 civil legal assistance for low-income persons account in the state special revenue fund. The money in the account
15 must be used solely to provide legal assistance to low-income persons in civil legal matters.

16 (2) The supreme court administrator shall establish procedures for the distribution and accountability of
17 money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily
18 provide or finance legal services to indigent persons in civil matters to receive or administer the distribution of
19 funds.

20 (3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the judicial branch for
21 the office of the court administrator for the purpose provided in subsection (1).

22
23 **Section 2.** Section 3-1-702, MCA, is amended to read:

24 **"3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction
25 of the supreme court, the court administrator shall:

26 (1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded
27 district court program;

28 (2) collect, compile, and report statistical and other data relating to the business transacted by the courts
29 and provide the information to the legislature on request;

30 (3) report annually to the law and justice interim committee and at the beginning of each regular

1 legislative session report to the house appropriations subcommittee that considers general government on the
 2 status of development and procurement of information technology within the judicial branch, including any
 3 changes in the judicial branch information technology strategic plan and any problems encountered in deploying
 4 appropriate information technology within the judicial branch. The court administrator shall, to the extent possible,
 5 provide that current and future applications are coordinated and compatible with the standards and goals of the
 6 executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

7 (4) recommend to the supreme court improvements in the judiciary;

8 (5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

9 (6) administer civil legal assistance for low-income persons, as provided in [section 1];

10 ~~(6)(7)~~ administer state funding for district courts, as provided in chapter 5, part 9;

11 ~~(7)(8)~~ administer and report on the child abuse court diversion pilot project, as provided in 41-3-305;

12 ~~(8)(9)~~ administer the judicial branch personnel plan; and

13 ~~(9)(10)~~ perform other duties that the supreme court may assign. (Subsection ~~(7)~~ (8) terminates June 30,
 14 2017--sec. 7, Ch. 376, L. 2015.)"

15

16 **Section 3.** Section 3-2-714, MCA, is amended to read:

17 **"3-2-714. Civil legal assistance for indigent victims of domestic violence account.** (1) There is a
 18 civil legal assistance for indigent victims of domestic violence account in the state special revenue fund. There
 19 must be paid into this account the filing fees ~~paid under~~ provided for in 25-1-201(3)(a) and (5). The money in the
 20 account must be used solely for the purpose of providing legal representation for indigent victims in civil matters
 21 in domestic violence cases and for alternative dispute resolution initiatives in family law cases. Money in the
 22 account may not be used for class action lawsuits.

23 (2) The supreme court administrator shall establish procedures for the distribution and accountability of
 24 money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily
 25 render or finance legal services to indigent persons in civil matters in domestic violence cases to receive or
 26 administer the distribution of the funds."

27

28 **Section 4.** Section 17-7-502, MCA, is amended to read:

29 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 30 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the

1 need for a biennial legislative appropriation or budget amendment.

2 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
3 of the following provisions:

4 (a) The law containing the statutory authority must be listed in subsection (3).

5 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; section 1;
8 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;
9 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
10 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
11 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
12 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905;
13 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612;
14 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101;
15 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
16 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;
17 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;
18 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

19 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
20 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
21 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
22 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
23 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
24 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
25 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
26 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
27 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
28 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
29 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
30 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004

1 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
 2 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
 3 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;
 4 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
 5 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
 6 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
 7 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of
 8 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
 9 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 10 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
 11 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December
 12 31, 2023.)"

13

14 **Section 5.** Section 25-1-201, MCA, is amended to read:

15 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

16 (a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from
 17 the plaintiff or petitioner, ~~\$90~~ \$170; for filing a complaint in intervention, from the intervenor, ~~\$80~~ \$170; for filing
 18 a petition for dissolution of marriage, \$170; for filing a petition for legal separation, \$150; and for filing a petition
 19 for a contested amendment of a final parenting plan, \$120;

20 (b) from each defendant or respondent, on appearance, ~~\$60~~ \$100;

21 (c) on the entry of judgment, from the prevailing party, \$45;

22 (d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office
 23 in all criminal and civil proceedings, \$1 a page for the first 10 pages of each file, for each request, and 50 cents
 24 for each additional page;

25 (ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

26 (iii) for providing copies of papers on file in the clerk's office by facsimile, e-mail, or other electronic means
 27 in all criminal and civil proceedings, 25 cents per page;

28 (e) for each certificate, with seal, \$2;

29 (f) for oath and jurat, with seal, \$1;

30 (g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years,

1 and an additional \$1 for each name for any additional year searched;

2 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the
3 fee for entry of judgment provided for in subsection (1)(c);

4 (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

5 (j) for transmission of records or files or transfer of a case to another court, \$5;

6 (k) for filing and entering papers received by transfer from other courts, \$10;

7 (l) for issuing a marriage license, ~~\$53~~ \$60;

8 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment of
9 a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the
10 applicant or petitioner, \$70, which includes the fee for filing a will for probate;

11 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the
12 estate of a nonresident decedent, \$55;

13 (o) for filing a declaration of marriage without solemnization, ~~\$53~~ \$60;

14 (p) for filing a motion for substitution of a judge, \$100;

15 (q) for filing a petition for adoption, \$75; and

16 (r) for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.

17 (2) Except as provided in subsections (3) and (5) through ~~(7)~~ (9), fees collected by the clerk of district
18 court must be deposited in the state general fund as specified by the supreme court administrator.

19 (3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's
20 trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for indigent victims
21 of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family
22 member assault intervention and treatment fund established in 40-15-110.

23 (b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund
24 account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention
25 and treatment fund established in 40-15-110.

26 (4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an
27 amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may
28 not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under
29 subsection (1)(a).

30 (5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be

1 deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714 and
 2 \$80 must be deposited in the civil legal assistance for low-income persons account established in [section 1].

3 (6) Of the fee for filing a complaint in intervention, \$90 must be deposited in the civil legal assistance for
 4 low-income persons account established in [section 1].

5 (7) Of the fee collected on the appearance from each defendant or respondent, \$40 must be deposited
 6 in the civil legal assistance for low-income persons account established in [section 1].

7 ~~(6)(8)~~ The fees collected under subsections (1)(d), (1)(g), (1)(j), and (1)(r) must be deposited in the
 8 county district court fund. If a district court fund does not exist, the fees must be deposited in the county general
 9 fund to be used for district court operations.

10 ~~(7)(9)~~ Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without
 11 solemnization, \$13 must be deposited in the domestic violence intervention account established by in 44-4-310,
 12 and \$10 must be deposited in the county district court fund, and \$7 must be deposited in the civil legal assistance
 13 for low-income persons account established in [section 1]. If a district court fund does not exist, the fees must be
 14 deposited in the county general fund to be used for district court operations.

15 ~~(8)(10)~~ Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not
 16 otherwise specifically allocated must be deposited in the state general fund."

17

18 **Section 6.** Section 25-9-506, MCA, is amended to read:

19 **"25-9-506. Fees.** (1) Except as provided for in subsection (2), a person filing a foreign judgment shall
 20 pay to the clerk of court a fee of ~~\$60~~ \$100, of which \$40 must be deposited in the civil legal assistance for
 21 low-income persons account established in [section 1].

22 (2) Fees for docketing, transcription, or other enforcement proceedings must be as provided for
 23 judgments of the district court.

24 (3) Fees collected by the clerk of district court not otherwise specifically allocated must be forwarded to
 25 the department of revenue for deposit in the state general fund."

26

27 **Section 7.** Section 25-31-112, MCA, is amended to read:

28 **"25-31-112. Fees.** The following is the schedule of fees that, except as provided in 25-35-605, must be
 29 paid in every civil action in a justice's court:

30 (1) when a complaint is filed, the following fee to be paid by the plaintiff:

1 ~~_____ (a) \$30 beginning July 1, 2013;~~
 2 ~~_____ (b) \$35 beginning July 1, 2014; and~~
 3 ~~(c)(a) \$40 beginning July 1, 2015; and~~
 4 (b) \$45 beginning July 1, 2017, of which \$5 must be deposited in the civil legal assistance for low-income
 5 persons account established in [section 1].

6 (2) \$20 when the defendant appears, to be paid by the defendant;

7 (3) \$20 to be paid by the prevailing party when judgment is rendered. In cases in which judgment is
 8 entered by default, no charge except the fee provided in subsection (1) for the filing of the complaint may be made
 9 for any services, including issuing and return of execution.

10 (4) \$20 for all services in an action in which judgment is rendered by confession;

11 (5) \$20 for filing a notice of appeal and transcript on appeal, justifying and approving an undertaking on
 12 appeal, and transmitting papers to the district court with a certificate."

13

14 **Section 8.** Section 44-4-310, MCA, is amended to read:

15 **"44-4-310. Domestic violence intervention account -- administration by board of crime control.**

16 (1) There is a domestic violence intervention account in the state special revenue fund in the state treasury. There
 17 must be paid into this account the designated filing fees paid under ~~25-1-201(7)~~ 25-1-201(9) to the clerk of the
 18 district court. The money deposited in the account must be used for services provided under 44-4-311.

19 (2) Funds deposited in the account may be expended by the Montana board of crime control, as provided
 20 for in 2-15-2006, to fund services and activities under and payment of administrative costs of the domestic
 21 violence intervention program provided for in 44-4-311."

22

23 NEW SECTION. **Section 9. Reporting.** The supreme court administrator shall submit a report to the
 24 law and justice interim committee on or before September 30, 2021, documenting the amount of revenue
 25 deposited in the civil legal assistance for low-income persons account established in [section 1], the amount of
 26 funds distributed pursuant to [section 1], and the nonprofit organizations to which the funds were distributed. The
 27 report shall include a summary of the legal services provided to low-income persons by organizations receiving
 28 funds under [section 1].

29

30 NEW SECTION. **Section 10. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 3, chapter 2, part 7, and the provisions of Title 3, chapter 2, part 7, apply to [section 1].

2

3 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2017.

4

5 NEW SECTION. **Section 12. Termination.** [This act] terminates June 30, 2023.

6

- END -