

1 SENATE BILL NO. 402

2 INTRODUCED BY C. SMITH, J. ELLSWORTH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO THE JUDICIARY;
5 PROVIDING THAT THE JUDICIAL NOMINATING COMMISSION INCLUDE EIGHT ADDITIONAL LAY
6 MEMBERS; INCREASING THE FEE FOR ENTRY OF JUDGMENT; AMENDING SECTIONS 3-1-1001 AND
7 25-1-201, MCA; AND PROVIDING EFFECTIVE DATES."

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

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11 **Section 1.** Section 3-1-1001, MCA, is amended to read:

12 **"3-1-1001. Creation, composition, and function of commission.** (1) A judicial nomination
13 commission for the state is created. Its function is to provide the governor with a list of candidates for
14 appointment to fill any vacancy on the supreme court or any district court and to provide the chief justice of the
15 supreme court with a list of candidates for appointment to fill any term or vacancy for the chief water judge or
16 associate water judge pursuant to 3-7-221. The commission is composed of ~~seven~~15 members as follows:

17 (a) ~~four~~12 lay members who are neither judges nor attorneys, active or retired, who reside in different
18 geographical areas of the state, and each of whom is representative of a different industry, business, or
19 profession, whether actively engaged or retired, who are appointed by the governor;

20 (b) two attorneys actively engaged in the practice of law, one from that part of the state that is
21 composed of judicial districts 1 through 5, 9, 11, and 18 through 21 and one from that part of the state that is
22 composed of judicial districts 6 through 8, 10, 12 through 17, and 22, who are appointed by the supreme court;

23 (c) one district judge elected by the district judges under an elective procedure initiated and
24 conducted by the supreme court and certified to election by the chief justice of the supreme court. The election
25 is considered an appointment for the purposes of this part.

26 (2) Appointments provided for in this section must be made within 30 days of the completion of the
27 preceding terms."

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1 **Section 2.** Section 25-1-201, MCA, is amended to read:

2 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following
3 fees:

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

8 (b) from each defendant or respondent, on appearance, \$60;

9 (c) on the entry of judgment, from the prevailing party, ~~\$45~~ \$50;

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

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

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

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

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

18 (g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7
19 years, and an additional \$1 for each name for any additional year searched;

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

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

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

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

25 (l) for issuing a marriage license, \$53;

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

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

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

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

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

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

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

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

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

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

20 (5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must
21 be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-
22 714.

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

26 (7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without
27 solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-7-202
28 and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must

1 be deposited in the county general fund to be used for district court operations.

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

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5 NEW SECTION. **Section 3. Effective date -- contingency.** (1) Except as provided in subsection (2),
6 [this act] is effective on passage and approval.

7 (2) [Section 1] is effective on the date that the clerk of the Montana supreme court certifies to the
8 code commissioner that Senate Bill No. 140 is found unconstitutional or otherwise invalid. The clerk of the
9 Montana supreme court shall submit certification within 5 days of the occurrence of the contingency.

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