

1 SENATE BILL NO. 44

2 INTRODUCED BY J. SMALL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COURT ADMINISTRATION LAWS RELATED TO
5 FAMILY AND HOUSING CASES; CREATING THE CIVIL JUSTICE IMPROVEMENTS GRANT PROGRAM TO
6 BE ADMINISTERED BY THE SUPREME COURT ADMINISTRATOR; INCREASING FEES FOR CERTAIN
7 FILINGS IN DISTRICT COURT; CREATING AN ACCOUNT AND ALLOCATING A PORTION OF THE FILING
8 FEES TO THE ACCOUNT; PROVIDING FOR ACCOUNTABILITY OF FUNDS; AMENDING SECTIONS 3-1-
9 702, 3-2-714, 25-1-201, 25-9-506, 37-61-421, AND 44-7-202, MCA; AND PROVIDING AN EFFECTIVE DATE
10 AND A TERMINATION DATE."

11

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

13

14 NEW SECTION. **Section 1. Civil justice improvements account.** (1) There is a civil justice
15 improvements account in the state special revenue fund established in 17-2-102(1)(b)(i). The revenue in the
16 account must be used solely to provide funding to improve the administration of civil legal matters involving
17 family and housing issues as provided in [section 2]. Programs funded by the account are intended to improve
18 court efficiency, reduce delays, provide legal information and assistance to persons of limited means, and help
19 all court users save time and money by resolving their disputes more quickly.

20 (2) There must be paid into the account money collected pursuant to 25-1-201(5) through (7) and
21 25-9-506(1).

22 (3) Money deposited in the account is subject to appropriation by the legislature and may be used
23 only by the supreme court administrator to provide civil justice improvement grants pursuant to [section 2].

24

25 NEW SECTION. **Section 2. Civil justice improvements grant program.** (1) There is a civil justice
26 improvements grant program administered by the supreme court administrator.

27 (2) Alternative dispute resolution programs connected with a district court or court of limited
28 jurisdiction, legal aid clinics affiliated with an accredited Montana law school that assist persons of limited

1 means with family-related or housing-related civil legal matters, and tax-exempt organizations are eligible to
2 receive grant funds from the program. An eligible tax-exempt organization must be a 501(c)(3) nonprofit
3 organization in operation for at least 1 year that ordinarily renders or finances legal services to persons of
4 limited means with family-related or housing-related civil legal matters or coordinates volunteer or reduced-fee
5 legal services to provide attorney representation to persons of limited means. Funds awarded from the program
6 may be used only for the purposes set forth in this section.

7 (3) The supreme court administrator shall establish criteria and procedures for the distribution and
8 accountability of money in the civil justice improvements account in the state special revenue fund established
9 in [section 1]. The supreme court administrator shall award grant funds in accordance with Title 18, chapter 4,
10 within the amount appropriated by the legislature, to be used only in family law and landlord-tenant matters or
11 other housing-related matters. The supreme court administrator shall give priority to improving case resolution
12 in state courts with heavy caseloads or in locations that lack access to legal services, including those with large
13 Indian populations, and to means of resolving family and housing disputes more efficiently, such as
14 technological innovations, legal forms, instructional materials explaining court rules and processes, and helping
15 persons of limited means obtain volunteer or reduced-fee legal services in these matters.

16 (4) An applicant for a grant of funds from the account shall include in the grant application a
17 detailed plan for how the applicant will use the funds for one or more of the purposes of this section and for how
18 the applicant will collect and report data, account for the funds received, and measure progress on performance
19 goals.

20
21 **NEW SECTION. Section 3. Reporting.** The supreme court administrator shall submit a report to the
22 law and justice interim committee on or before September 30, 2027, documenting the amount of revenue
23 deposited in the civil justice improvements account in the state special revenue fund established in [section 1],
24 the amount of funds distributed pursuant to [section 1], and the programs or nonprofit organizations to which
25 funds were distributed. The report must include a summary of the legal services provided to persons of limited
26 means by organizations receiving funds under [section 2], a summary of outcome measures, and information
27 concerning the impact, if any, on court efficiencies and caseloads. The report must also include a summary of
28 cases, if any, in which a court has imposed sanctions under 37-61-421(2) against an attorney whose services

1 are funded by [section 2].

2

3 **Section 4.** Section 3-1-702, MCA, is amended to read:

4 **"3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction
5 of the supreme court, the court administrator shall:

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

8 (2) collect, compile, and report statistical and other data relating to the business transacted by the
9 courts and provide the information to the legislature on request and, if requested, in accordance with 5-11-210;

10 (3) to the extent possible, provide that current and future information technology applications are
11 coordinated and compatible with the standards and goals of the executive branch as expressed in the state
12 strategic information technology plan provided for in 2-17-521;

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

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

15 ~~(6)~~ administer the civil justice improvements grant program, as provided in [section 2];

16 ~~(6)(7)~~ administer state funding for district courts, as provided in chapter 5, part 9;

17 ~~(7)(8)~~ administer the pretrial program provided for in 3-1-708;

18 ~~(8)(9)~~ administer the treatment court support account provided for in 46-1-1115;

19 ~~(9)(10)~~ administer the judicial branch personnel plan; and

20 ~~(10)(11)~~– _____perform other duties that the supreme court may assign."

21

22 **Section 5.** Section 3-2-714, MCA, is amended to read:

23 **"3-2-714. Civil legal assistance for indigent victims of domestic violence account.** (1) There is a
24 civil legal assistance for indigent victims of domestic violence account in the state special revenue fund. There
25 must be paid into this account the filing fees paid under 25-1-201(3)(a) and (5), except for those fees
26 designated for the civil justice improvements account in the state special revenue fund established in [section
27 1]. The money in the account must be used solely for the purpose of providing legal representation for indigent
28 victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family law

1 cases. Money in the account may not be used for class action lawsuits.

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

6

7 **Section 6.** Section 25-1-201, MCA, is amended to read:

8 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following
9 fees:

10 (a) at the commencement of each action or proceeding, except a petition for dissolution of
11 marriage, from the plaintiff or petitioner, ~~\$90~~ \$150; for filing a complaint in intervention, from the intervenor, ~~\$80~~
12 \$150; for filing a petition for dissolution of marriage, \$170; for filing a petition for legal separation, \$150; and for
13 filing a petition for a contested amendment of a final parenting plan, \$120;

14 (b) from each defendant or respondent, on appearance, ~~\$60~~ \$75;

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

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

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

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

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

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

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

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

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

- 1 (j) for transmission of records or files or transfer of a case to another court, \$5;
- 2 (k) for filing and entering papers received by transfer from other courts, \$10;
- 3 (l) for issuing a marriage license:
- 4 (i) when one or both parties to the marriage are present at the solemnization, \$53;
- 5 (ii) when neither party is present at the solemnization, \$83;
- 6 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
- 7 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the
- 8 applicant or petitioner, \$70, which includes the fee for filing a will for probate;
- 9 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of
- 10 the estate of a nonresident decedent, \$55;
- 11 (o) for filing a declaration of marriage without solemnization, \$53;
- 12 (p) for filing a motion for substitution of a judge, \$100;
- 13 (q) for filing a petition for adoption, \$75;
- 14 (r) for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per
- 15 page.
- 16 (2) Except as provided in subsections (3) and (5) through ~~(7)~~ (9), fees collected by the clerk of
- 17 district court must be deposited in the state general fund as specified by the supreme court administrator.
- 18 (3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the
- 19 children's trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for
- 20 indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner
- 21 and family member assault intervention and treatment fund established in 40-15-110.
- 22 (b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust
- 23 fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault
- 24 intervention and treatment fund established in 40-15-110.
- 25 (4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an
- 26 amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court
- 27 may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan
- 28 under subsection (1)(a).

1 (5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9
 2 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in
 3 3-2-714 and \$60 must be deposited in the civil justice improvements account in the state special revenue fund
 4 established in [section 1].

5 (6) Of the fee for filing a complaint in intervention, \$70 must be deposited in the civil justice
 6 improvements account in the state special revenue fund established in [section 1].

7 (7) Of the fee collected on appearance from each defendant or respondent, \$15 must be deposited
 8 in the civil justice improvements account in the state special revenue fund established in [section 1].

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

12 ~~(7)~~(9) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage
 13 without solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-
 14 7-202 and \$10 must be deposited in the county district court fund, except that \$30 must be deposited in the
 15 county district court fund when neither party to a marriage is present at the solemnization. If a district court fund
 16 does not exist, the fees must be deposited in the county general fund to be used for district court operations.

17 ~~(8)~~(10) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not
 18 otherwise specifically allocated must be deposited in the state general fund."
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20 **Section 7.** Section 25-9-506, MCA, is amended to read:

21 "**25-9-506. Fees.** (1) Except as provided for in subsection (2), a person filing a foreign judgment shall
 22 pay to the clerk of court a fee of ~~\$60~~ \$122, of which \$62 must be deposited in the civil justice improvements
 23 account in the state special revenue fund established in [section 1].

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

26 (3) Fees collected by the clerk of district court not otherwise specially allocated must be forwarded
 27 to the department of revenue for deposit in the state general fund."
 28

1 **Section 8.** Section 37-61-421, MCA, is amended to read:

2 **"37-61-421. Attorney's or litigant's liability for excess costs.** (1) An attorney or party to any court
3 proceeding who, in the determination of the court, multiplies the proceedings in any case unreasonably and
4 vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorney fees
5 reasonably incurred because of such conduct.

6 (2) An attorney whose services in a court proceeding are funded by a grant awarded under
7 [section 2] and who is found by the court to have brought the action frivolously or vexatiously may be required
8 by the court to satisfy personally the costs, expenses, and attorney fees reasonably incurred because of this
9 conduct."

10

11 **Section 9.** Section 44-7-202, MCA, is amended to read:

12 **"44-7-202. Domestic violence intervention account -- administration by board of crime control.**

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

16 (2) Funds deposited in the account may be expended by the Montana board of crime control, as
17 provided for in 2-15-2008, to fund services and activities under and payment of administrative costs of the
18 domestic violence intervention program provided for in 44-7-201."

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20 NEW SECTION. Section 10. Codification instruction. [Sections 1 through 3] are intended to be
21 codified as an integral part of Title 3, chapter 2, part 7, and the provisions of Title 3, chapter 2, part 7, apply to
22 [sections 1 through 3].

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24 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2023.

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26 NEW SECTION. Section 12. Termination. [Sections 1 through 9] terminate June 30, 2029.

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